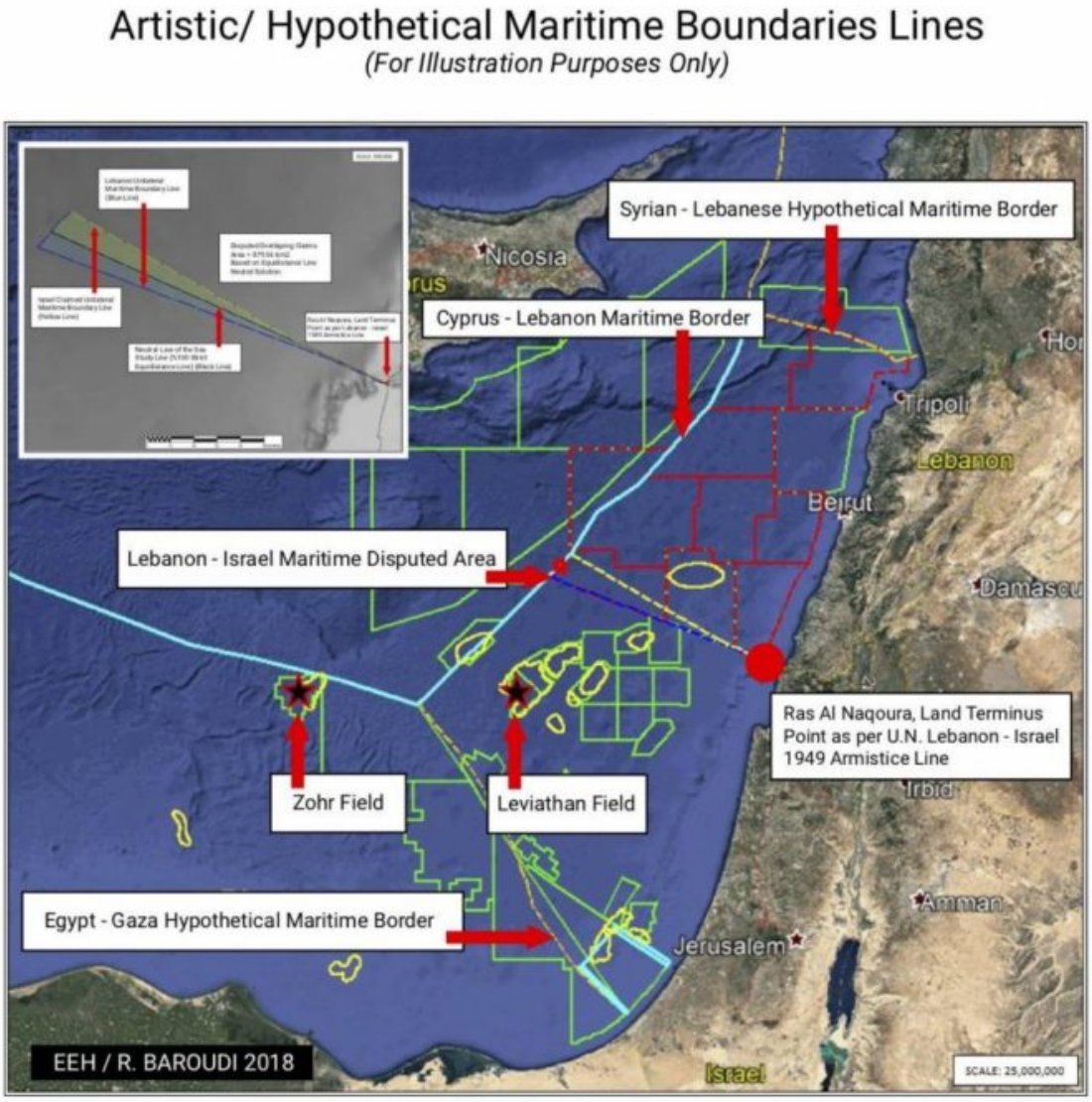
Lebanon-Israel maritime dispute: Hundreds of billions of reasons to negotiate



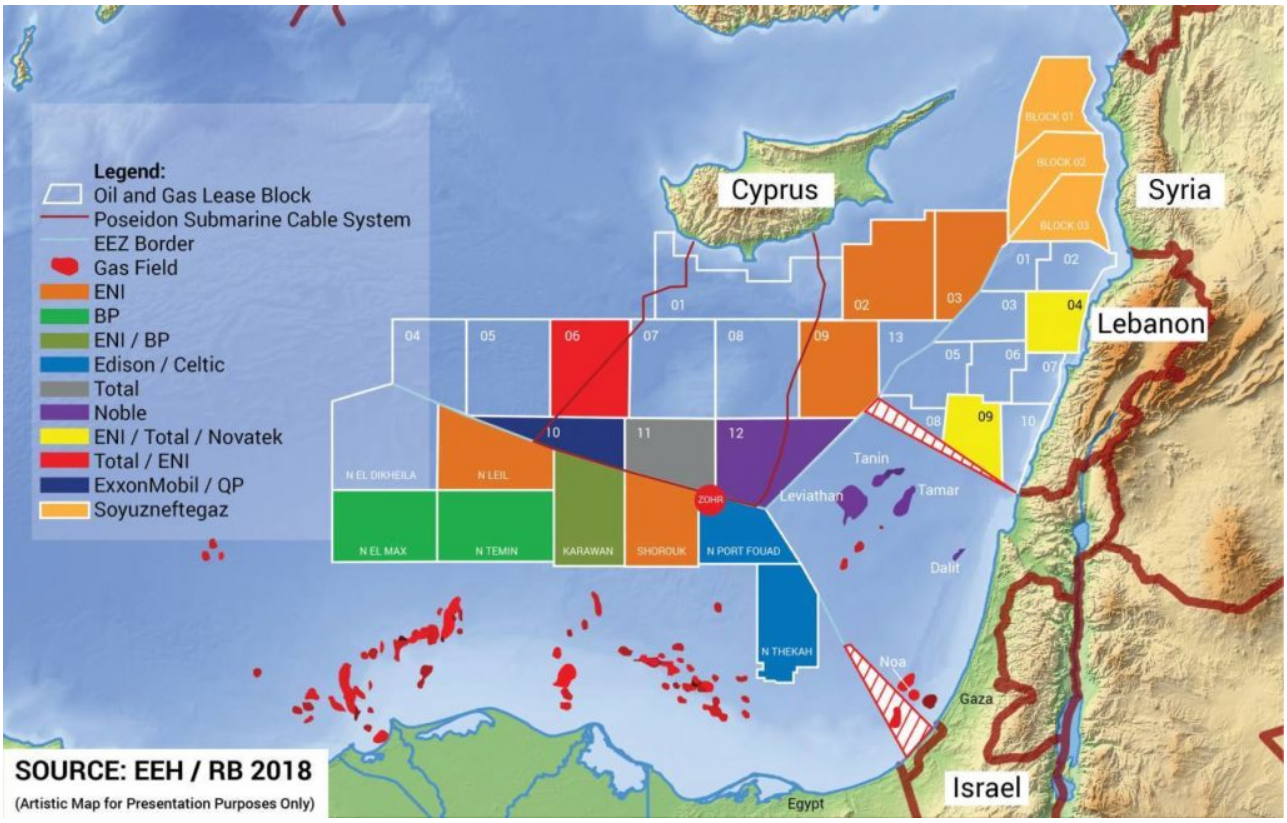

DOHA: For months, Lebanon and Israel have been at a historic crossroads over how to settle their maritime boundary dispute. Although their competing claims concern a patch of water of less than 900 square kilometers, it is the potential reserves of oil and, especially, natural gas worth billions of dollars that are at the heart of the dispute.

Now both sides acknowledge that US-led efforts to settle the matter diplomatically are still underway. Given the fact that that the two sides do not have diplomatic relations and have been, legally speaking, at war since 1948, resolving this dispute was always going to be a challenge. But it is not impossible. Even if no direct talks can take place between the two countries, both international law, in general, and those associated with the United Nations, in particular, feature institutions, procedures, legal standards, and mechanisms that could help resolve the dispute.

In addition, if attempts to find a solution enjoy the active support and participation of the United States, the UN, and the international community in general, and if the parties are patient, there is a very real chance of success. Significantly, too, as members of the United Nations, both countries have shared obligations under the UN Charter to settle their disputes peacefully and to refrain from the threat or use of force.

Even more crucially, both countries share massive incentives to avoid any kind of action that threatens to upset the development of their respective energy sectors. It is true, as Israeli Energy Minister Yuval Steinitz said recently, that diplomatic negotiations could well delay exploration, delaying

Israel's plans to expand its existing production of natural gas. The same applies for Lebanon's efforts to get its own energy sector off the ground. But this is insignificant, in the grand scheme of things, compared to the interruptions in gas exploration that could be expected to result from the outbreak of a shooting war, not to mention the direct and indirect costs – in blood and treasure alike – of such a conflict. All told, the drag on the economic prosperity of both countries would outlast the fighting itself as foreign investors and qualified insurers would be spooked for years.



By contrast, if the parties successfully avoid conflict, both of them stand to reap enormous rewards. For Israel, the resolution of the dispute would free it to further expand an industry which is already supplying valuable fuel for power generation and other domestic needs, as well as exporting gas since commencing sales to Jordan earlier this year, and is now gearing up to implement the deal to provide Egypt with some USD 15 billion worth of gas over the next 10 years. This is because opening up the disputed area to exploration and production is likely to enlarge the size of Israel's gas

reserves and revenues. And more importantly, the real prize of resolving the dispute would be an improved risk environment, which would boost the business and investment environments for all Israeli companies, not just energy ones.

For Lebanon, the potential significance of gas exploration and development starting sooner is even greater since none are yet underway. Almost as soon as production were to begin, the national fuel bill would fall substantially, and the state-run Electricité du Liban (EDL) would be able to run some of its generating plants on gas, for which they were designed, rather than the more polluting, more expensive, and less efficient gas oil they currently use. Shortly thereafter, Lebanon's improved economic prospects – and the reduction in political risks – would lower the cost of credit and make it cheaper to repay its large debt. Eventually, some of the gas produced could even be exported, providing the Lebanese government with new revenues which, if properly managed and invested, could help fight poverty, improve education, infrastructure, and spark a historic socioeconomic rebirth.

For both sides, then, the best way forward is clearly the same: to get rid of the obstacles as quickly and as painlessly as possible, and then get down to business. Since this is a win-win situation, reaching an agreement would be relatively straightforward if we were talking about countries in other parts of the world. We are, however, talking about Lebanon and Israel and the region that surrounds them. And that makes reaching an agreement much more complicated.

This is because some of the obstacles to any sort of Libano-Israeli agreement are effectively insurmountable, at least for the foreseeable future. From this point of view, overcoming the inability to negotiate directly is the easy part as negotiations can be conducted through intermediaries. It will require considerably greater amounts of imagination and dexterity, though, to do so without disturbing the pillars upholding decades of Lebanese foreign policy.

One of these is Beirut's categorical refusal to recognize Israel because the latter was established at the expense of a brotherly people, namely the Palestinians. Even a Lebanese government inclined to bend on this issue, despite massive internal opposition, would never do so unilaterally for risk of being ostracized by the rest of the Arab world. Let's not forget that Egypt was shunned for a decade by its Arab League partners for making a separate peace agreement with Israel. Tiny Lebanon would be even more vulnerable to such treatment. It is, in fact, Beirut's unambiguous stance on Israel which proves it is bona fide and guarantees it a seat in the club of Arab governments. It is proof that, despite having paid a high price compared to other front-line countries, Lebanon will not buckle in its commitment to support the Palestinians. It will not, cannot, and should not abandon that status for the sake of monetary gain.

In this regard, it is essential to keep in mind that Israel's foreign policy establishment views the extraction with some degree of acceptance, even if partial and/or informal, as an ever-present objective of any Israeli diplomatic interaction, even if indirect, with any Arab government. In fact, however, there also is a long history of Israeli officials leaking discrete contacts with Arab government officials without mutual consent, thereby embarrassing their interlocutors, erasing any progress achieved and poisoning the well for future dialogue.

Another obstacle to resolving the maritime dispute is that any solution will almost certainly require Cypriot agreement as its Exclusive Economic Zone (EEZ) abuts that of both countries. Cyprus has signed bilateral EEZ agreements with both countries, although Lebanon has never ratified its agreement with Cyprus. Here arises further complication, given that when Beirut and Nicosia signed their EEZ agreement in 2007, the Lebanese side sought to avoid having the document be viewed as de facto recognition of Israel. Accordingly, and

in line with international law on maritime delimitation, the agreement did not define the tri-partite maritime border. Instead, it left the final point in the demarcation of the Cyprus/Lebanese border undefined, with the boundary demarcation coordinates starting at the now almost infamous “Point 1”.

Unfortunately, the approach taken produced the opposite effect because, in the Cyprus-Israel EEZ agreement of 2010, Point 1 was used as the starting point in the demarcation of the Cyprus/Israeli EEZ, even though it clearly should not have been. In this way, the buffer zone which the Lebanese/Cyprus EEZ agreement was meant to establish in order to prevent friction with Israel disappeared. An additional discrepancy on land – with Israel pushing its claim slightly north of the actual border – added to the overlap, but the vast majority is caused by Point 1, which lies some 11 nautical miles (18.5 kilometers) north of where the equidistant point (now known as “Point 23”) among the three countries would be drawn under the terms of Customary International Law (CIL) as set out in the United Nations Convention on the Law of the Sea (UNCLOS).

By agreeing to Point 1 being the starting point of its maritime boundary delimitation, Cyprus breached the express term in its agreement with Lebanon which required it “to notify and consult” Lebanon in case negotiations aimed at the delimitation of its EEZ with a “third country” concerned the demarcation points agreed with Lebanon. Moreover, by doing so, both Cyprus and Israel breached their obligations under UNCLOS and CIL, respectively, to refrain from actions that might prejudice Lebanon’s interests.

Lebanon protested against the terms of the Cyprus-Israel EEZ agreement, officially presenting its claims to the UN and seeking intervention from the Secretary-General and other UN bodies. However, since the Lebanese/Cypriot EEZ agreement never entered into force, arbitration under UNCLOS against Cyprus might be seen as undermining relations with a friendly

government, and Israel is not a party to UNCLOS and no third party mechanism has been invoked by Lebanon in respect of this breach.

Commencing conciliation proceedings against Cyprus under UNCLOS seems a more promising route: in this scenario, a conciliation commission would be given twelve months to reach conclusions about the laws and facts of the case, and issue recommendations to help Cyprus and Lebanon agree on a settlement. However, even assuming that the two countries were to accept such findings, the commission would not have the power to determine the tri-partite border and therefore the validity of Israel's claim to Point 1 being the starting point of the demarcation of the boundary of its EEZ with Cyprus and Lebanon. Given the express wording of the EEZ agreement it signed with Lebanon and its obligations under UNCLOS, it is not clear why Cyprus agreed to Point 1 as the starting point of its boundary demarcation with Israel.

However, the existence of these obstacles does not mean that dialogue is impossible, not when both sides stand to gain so much from a peaceful solution and to lose so much if an armed conflict were to break out, or even if the threat thereof were to persist.

In this respect, despite the contentious nature of its scope, the following provisions of the Israel-Cyprus EEZ agreement point to a way for dialogue to commence. First, Article 1 confirms that the Israel-Cyprus agreement is based on the same British Admiralty map referred to in both the unratified Lebanon-Cyprus EEZ agreement and the Cyprus/Egypt EEZ agreement. Second, Article 1(e) expressly acknowledges that the agreement is to be reviewed and modified if necessary to reach a tripartite agreement on EEZ delimitation among Israel, Lebanon, and Cyprus (even though the agreement does not refer to Lebanon by name). Finally, most supportive of Lebanon's claims is the fact that the preamble expressly refers to the provisions of UNCLOS concerning EEZ and the rules and

principles of international law of the sea applicable to the EEZ as bases for drawing up the agreement, Article 1(e) refers to CIL principles concerning maritime delimitation and Article 1(b) and Article 1(c) refers to the median line being the basis on which the EEZ was delimited between Israel and Cyprus. These references by Israel to the provisions of UNCLOS regarding EEZ delimitation make it very hard for it to deny that these provisions are principles of customary international law to which it is bound despite not being party to UNCLOS.

As such, from an international law perspective, the basis for the claims made by the two countries are not so far apart and there are mechanisms which have been adopted around the world in similar circumstances which could be invoked to resolve the dispute.

Since neither Lebanon nor Israel has accepted the compulsory jurisdiction of the International Court of Justice (ICJ) in The Hague, they would need to reach a special agreement to refer the maritime boundary dispute to it. And since Israel is not a party to UNCLOS, Lebanon cannot force Israel to resolve the maritime boundary dispute via third-party resolution pursuant to its provisions. At the same time, it is important to keep in mind that since the Mediterranean Sea is regarded as a semi-enclosed sea, pursuant to Part IX of UNCLOS (which is also considered part of CIL and as such binding on Israel), both countries are under an express obligation to cooperate in case of a disagreement.

A negotiated solution is within reach if both parties act in good faith, especially since both the Paulet-Newcombe Agreement of 1923 and the Armistice Agreement of 1949 provide clear border demarcation – and both the Lebanon-Cyprus and the Israel-Cyprus EEZ agreements allow for modification. If an EEZ boundary can be agreed, straddling reserves could be shared under the terms of a unitization agreement. If no agreement on delimitation is possible, the two countries could agree to

declare the entire disputed area a joint development zone and enter into a joint development agreement along the lines of those adopted by Nigeria and Sao Tome and Principe, or Australia and East Timor, to develop such a zone. There are many models of such agreements which can be explored to find the best solution for this case.

Finally, it is important to note that Israel's objections to Lebanon having been awarded exploration rights in the "disputed area" are on very thin legal ice. In fact, under UNCLOS and the rules of CIL, Lebanon's only obligations are to cooperate to reach an agreement through a third party with Israel on the exploration and exploitation of straddling gas reserves; and to, in the absence of such an agreement, exercise restraint with respect to the unilateral exploitation of straddling reserves. Importantly, it has these obligations to the extent that a gas field can be exploited from both sides of the disputed border. Moreover, the obligation to exercise restraint does not apply to granting licenses to explore since no irreparable prejudice would be suffered by Israel by such exploration. Since it would seem that only 8 percent of Block 9 falls in the disputed area and that the actual gas field which Eni, NOVATEK, and TOTAL plan to explore falls outside the disputed area, by allowing such exploration to go ahead Lebanon is not breaching international law.

Despite being in a strong legal position, Lebanon has very little to lose – and everything to gain – by being tireless in seeking a negotiated solution, and the same applies to Israel. Going down the route of a joint development agreement would allow them both to agree to proceed with energy development without sacrificing their long-term interests.

The value of the energy in question has been estimated at more than USD 700 billion; that's almost three-quarters of a trillion reasons why a solution needs to be found. All Lebanese should want this because it promises, at the very least, to help alleviate so much of the economic/financial

pressure that has been holding the whole country back for more than two decades. No opportunity should be lost to state Lebanon’s claim loudly but reasonably, and no effort should be spared to reach an agreement.

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Lebanon-Israel maritime dispute: Rules of (diplomatic) engagement

Thus far attempts to resolve the dispute have been unsuccessful, but while the challenge is clearly a difficult one, the situation is far from irretrievable if the parties practice restraint and resolve to settle their differences via diplomacy and dialogue.

BEIRUT: Tensions between Lebanon and Israel are flaring once again, this time over the demarcation of their maritime border and, therefore, the rightful ownership of offshore oil and gas deposits.

Thus far attempts to resolve the dispute have been unsuccessful, but while the challenge is clearly a difficult one, the situation is far from irretrievable if the parties practice restraint and resolve to settle their differences via diplomacy and dialogue, however indirect.

Diplomatic efforts are complicated by several factors which block many of the usual avenues of dispute resolution. Awareness of these factors and the conditions they impose is a must, especially from the perspective of Lebanon, which will need to walk a virtual tightrope if it is to protect its rights while avoiding both further escalation of the conflict and any erosion of its refusal to recognize Israel.

First and foremost, Lebanon and Israel have no diplomatic relations, having remained in a legal state of war since 1948. Lebanon does not recognize Israel, armed non-stated groups have periodically used its territory as a staging area for attempts to liberate Palestine from Israeli occupation, and Israel has attacked, invaded, and/or occupied Lebanon numerous times, the most recent large-scale conflict having taken place in 2006.

The plain fact is that the absence of diplomatic relations is highly problematic for disputes over offshore resources. Most maritime demarcations are set out in treaties between the countries in question, which then serve as legal bases for any necessary adjudication of disputes. Israel and Lebanon have no such treaty, and there is no prospect in the foreseeable future of any kind of reconciliation that would allow them to so much as discuss one.

In addition, the two parties appear to disagree not just on the angle at which the southern boundary of Lebanon's EEZ should extend from the border along the coast, but also on where, precisely, that coastal border lies. Obviously, then, a purely bilateral process is out of the question. And as we shall see below, the absence of relations also throws up obstacles for the conventional use of international institutions.

Second, while Lebanon has signed and ratified the primary international agreement on maritime border demarcation, the 1982 United Nations Convention on the Law of the Sea (UNCLOS), Israel has not. Accordingly, there is no binding mechanism under which either state can refer the maritime border dispute for resolution without the express agreement of the other. However, since Israel has signed an Exclusive Economic Zone agreement with Cyprus, Lebanon does have options on this level.

One could lodge some form of protest against Cyprus on the

basis that its EEZ pact with Israel prejudges Lebanon's borders, but that seems unlikely and even more inadvisable as it would jeopardize Beirut's strong relations with Nicosia. Alternatively, Lebanon could invite Cyprus to join it in seeking conciliation under Article 284 of UNCLOS in order to resolve the dispute caused by the Israel-Cyprus EEZ agreement with Israel. Cyprus would have the right to reject such an approach, but it is certainly worth investigating what the Cypriot stance would be. If Cyprus has no objections, this kind of proceeding would demonstrate Lebanon's commitment to its obligation, under the UN Charter, to seek the peaceful resolution of disputes.

Third, while states regularly refer maritime border disputes for resolution to the International Court of Justice (ICJ) this is typically done by way of a special agreement between the states. This is because, as is, in fact, the case for Lebanon and Israel, very few states have signed up to the compulsory jurisdiction of the ICJ. Unless a state has accepted the compulsory jurisdiction of the ICJ, claims cannot be brought against it before the ICJ without its express agreement in relation to a specific claim.

It is unlikely that either Lebanon or Israel would consider submitting the maritime border dispute to the ICJ for fear that this might set a legal and/or politico-diplomatic precedent. Israel has only ever invoked the ICJ's jurisdiction once, in 1953, while Lebanon has been involved in two cases before the ICJ, most recently in 1959. Since the ICJ's 2004 advisory opinion reprimanded Israel for the construction of its wall around the Occupied West Bank, it is unlikely that Israel would consider referring any dispute, let alone one with Lebanon, to the ICJ. Lebanon's reservations with regard to appointing the ICJ or any third party to resolve the maritime border dispute are two-fold.

First, it has concerns that Israel would seek to condition any agreement to refer the maritime dispute to the ICJ or any

other international tribunal provided that Lebanon agrees to subject all border issues for resolution by such body. Second, it worries that any direct agreement with Israel to seek third-party involvement to resolve the dispute may be considered as de facto and de jure recognition of the state of Israel.

Third, and perhaps most importantly, even if the Lebanese-Israeli dispute were to be heard by ITLOS, the ICJ, or some other legal forum (e.g. ad hoc arbitration), the process would have to root its decision(s) in a body of law that would necessarily include what is referred to as "Customary International Law" (CIL) – which neither Israel nor Lebanon accepts in its entirety.

Israel's policy has long been to stay out of multilateral agreements that presume its acceptance of any international law – customary or otherwise – that might expose its occupation and settlement policies, inter alia, to independent scrutiny and/or sanction. In other words, when Israel "rejects" "accusations" that it's settling of occupied land violates international law, it does not deny that it commits the acts in question: it simply states its refusal to be bound by a law it does not recognize.

In practice, CIL allows for countries to remain largely outside its reach, but only if they consistently reject its applicability; governments cannot "cherry-pick" which laws to obey based on how they are affected in a particular case. Once you accept CIL in any way, shape, or form, you risk coming under its jurisdiction – a fate that Israel has worked hard to avoid for more than 70 years.

Beirut's approach is subtly different. Basically, it is happy to enter into multilateral agreements that commit it to meet certain standards, but only provided that doing so neither implies any recognition of Israel nor subjects all of Lebanon's borders to the judgment of the ICJ, whose verdicts

are final and cannot be appealed. That leaves room – not a lot, but some – for the Lebanese state to achieve satisfaction on the offshore issue without sacrificing its general positions vis-à-vis Israel and borders.

In addition, while there are particular elements that make the Lebanon-Israel dispute unique in some ways, the general conditions, in this case, are not unusual. Every coastal state on the planet, for instance, has at least one maritime zone that overlaps with that of another state, and many of these disputes remain unresolved. In the Eastern Mediterranean alone, several pairs of countries have yet to sign bilateral agreements on the boundaries between their respective EEZs, including Cyprus and Turkey, Cyprus and Syria, Greece and Turkey, and Israel and Palestine. Moreover, many of the bilateral maritime treaties that have been reached are opposed by neighboring countries with overlapping zones – as is the case with Lebanon's opposition to the Israel-Cyprus deal.

What these cases demonstrate is that even when there is plenty of bad blood but no delineation agreement between two states, there is no need to go to war. Quite the contrary, states with sharply opposed interests can and do coexist despite the absence of an agreed maritime boundary. All they have to do is show restraint and practice a modicum of common sense – which is what all states are supposed to do in any event, under their UN Charter obligations.

Restraint and (indirect) dialogue should be especially attractive in this case, not least because there is likely to be significant outside support for some kind of solution. In addition to the UN and US efforts, the involvement of France's TOTAL, Italy's ENI, and Russia's Novatek in the region means that each of their respective governments, plus the European Union as a whole, has a vested interest in using their own good offices to mediate an understanding that would, at the very least, open up Lebanon's Block 9 – thus far its most promising acreage – for exploration.

The real difference between this dispute and others is in the urgency, and that works both ways. It is true, for instance, that the threshold for conflict between Lebanon and Israel is lower than those between other neighbors: threats and even the actual use of force are habitual features of Israeli foreign policy, memories of shooting wars are fresher in Israel and Lebanon than most other places, and the value of the resources means there is plenty to fight over.

On the other hand, those same memories should serve as useful reminders that war is an inherently expensive business, and that any future conflict will extract a heavy cost – human, financial, reputational, etc. – from all concerned. The same goes for the stakes: with so much to gain from drilling and so much to lose from fighting, both countries have a clear interest in removing obstacles so that their respective oil and gas sectors can be developed as quickly as possible.

The important thing for Lebanon is to keep showing good faith and demonstrating commitment to its obligations to uphold peace and security as a signatory to the UN Charter, and thus far it has lived up to this responsibility. While remaining consistent in its refusal to even tacitly acknowledge Israel as a state, Beirut has engaged with two consecutive US envoys who have used a form of shuttle diplomacy to mediate the dispute. It also has made repeated appeals to the UN to help settle the matter. Whatever happens in the future, it is crucial that Lebanon retains this cooperative stance, for it not only protects its legal rights but also helps contain tensions that might otherwise cause Israel to act unilaterally.

One of the levers Lebanon can use to keep demonstrating a constructive position is in UN Security Council Resolution 1701, which ended the 2006 war.

Paragraph 10 of that document gives Lebanon (and Israel) the option to request that the UN Secretary-General proposes the

delimitation of the Lebanese-Israeli border. Beirut has indeed asked for the Secretary General's intervention, but it can help its cause by remaining focused on the issue, particularly the application of UNSCR 1701(10). Again, even if this effort falls short, it cannot but help to have a positive influence on tensions and to further burnish Lebanon's stature as a responsible state seeking peaceful resolution of a dispute with another party.

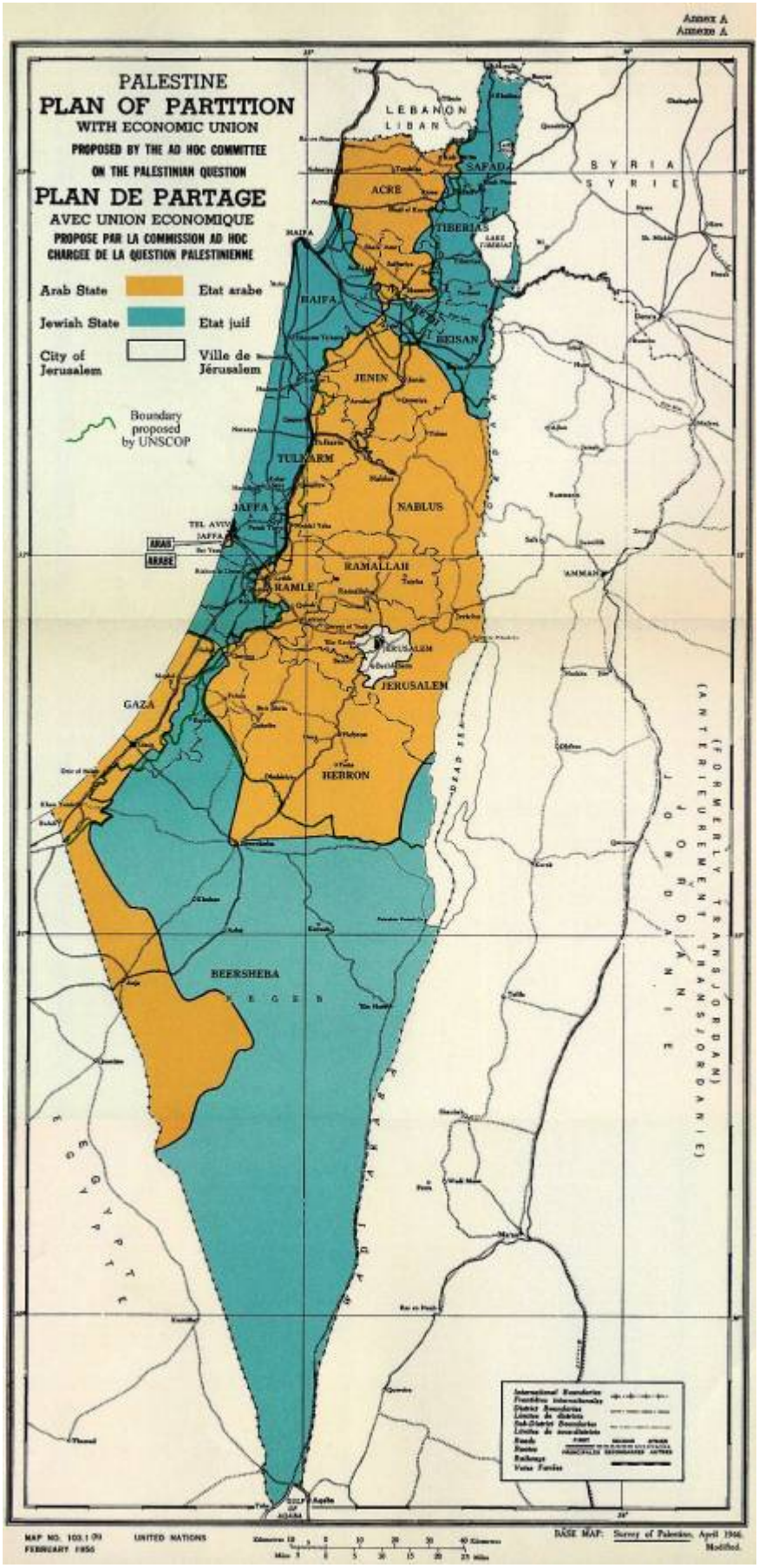
Apart from being meticulous about its commitment to peace and security, Lebanon's leadership also needs to be open and transparent with the general public, whose expectations for the oil and gas sector should be based on facts, not wishes. Educating public opinion will serve not only to address concerns that oil and gas revenues will be squandered by domestic mismanagement, but also reduce fears that Lebanese officials will sacrifice the national interest for the sake of their own personal gain.

The average Lebanese needs to understand that diplomacy often requires give-and-take, and that when it comes to energy especially, there are few zero-sum games: both sides often gain by accepting something less than their maximalist positions – or at least by allowing the time for due process to play out. In this instance, much has been made of the fact that Israel could end up sharing the revenues from any oil- or gasfield that straddles the eventual boundary between the two parties' respective EEZs. That is certainly possible, but it is also not especially relevant: the same rules of international law apply to straddling fields the world over, including some shared by mutually hostile nations. The same fact also cuts both ways because any agreement requiring Lebanon to share straddling fields first identified on its side of the line would likewise require Israel to do the same. While Lebanon might indeed have to share the potential revenues of fields that have yet to produce (or even be explored), therefore, the same international law principle

could well require Israel to share in those of fields that already are producing, possibly including some highly lucrative ones.

Of course, simply convincing Lebanese citizens that a fair settlement can be reached is not the same as promising that one will be reached. Nonetheless, it must be acknowledged that a) the Lebanese case is a strong one; and that b) Israel might well be convinced to accept an arrangement that falls well short of its stated demands.

The strength of Lebanon's position goes all the way back to the 1923 Paulet-Newcomb Agreement, which sets the border between what were then French Mandate Lebanon and British Mandate Palestine, and the 1949 Armistice Agreement, which ended hostilities in the 1948 war between an independent Lebanon and the recently established "state" of Israel. In the words of Israel's own Ministry of Foreign Affairs (website), the 1949 document "ratified the international border between former Palestine and Lebanon as the armistice line". This is important, not only because the Paulet-Newcomb pact sets Lebanon's southern border at Ras Naqoura, an advantageous point (for Lebanon) from which to delimit the two sides' EEZs, but also because in the absence of bilateral relations and therefore of a substantial record of cross-border trade, diplomacy, or other non-military interaction regarding the border, documents like these carry even more weight than might otherwise be the case.



Other factors also bode well for Lebanon’s short- and long-term legal prospects, including the fact that the part of

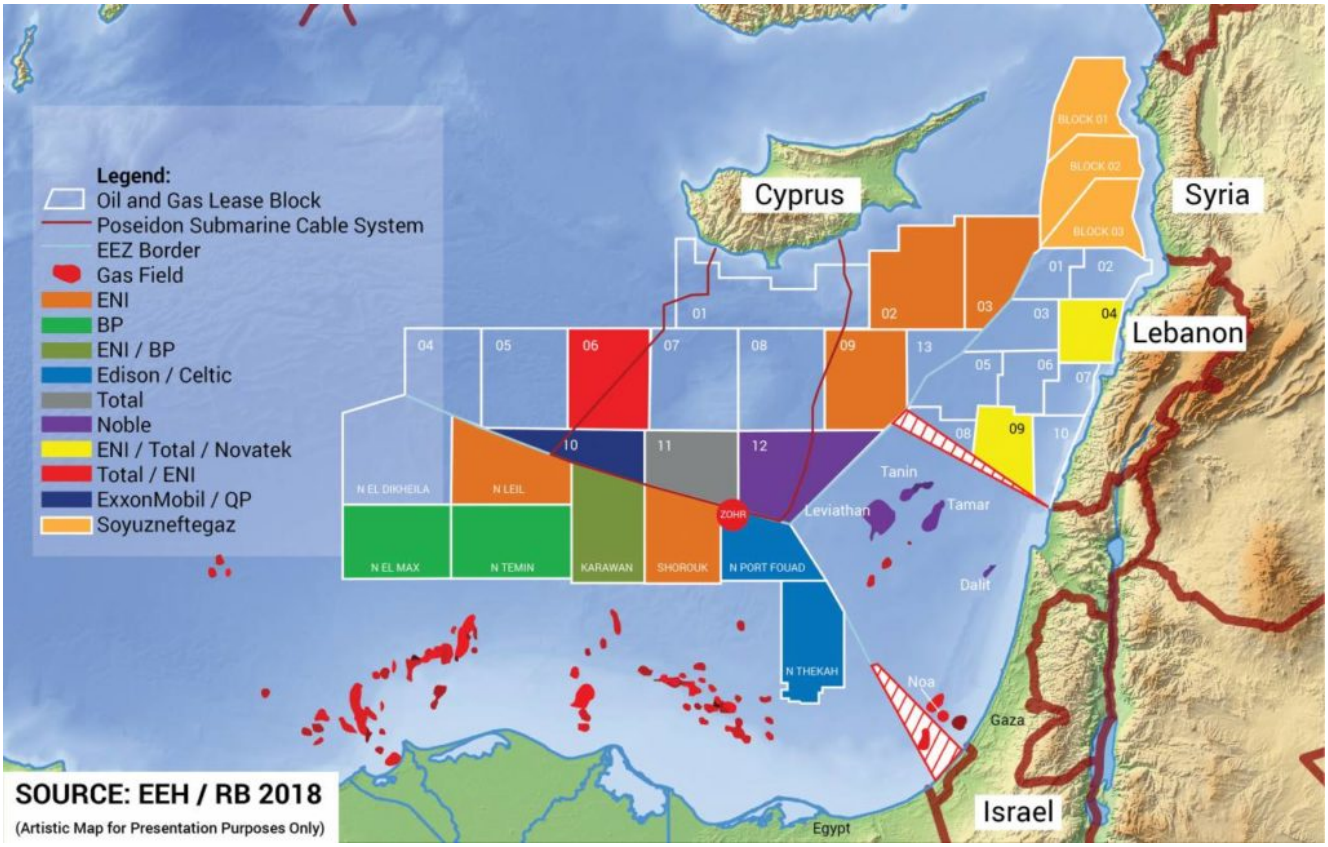
Block 9 in which TOTAL, ENI, and Novatek are most interested clearly lies well within Lebanon waters – even if one were to accept Israel's maximalist claims. That leaves plenty of room for at least a short-term compromise that would allow exploration in areas not subject to dispute while leaving more difficult questions for a later time.

The quality of the information Lebanon has submitted to the UN and other interested parties also gives significant weight to its position, and in more than one way. The Lebanese side has used original British Admiralty Hydrographic Charts – widely recognized as the most accurate and authoritative available – as the starting point for the southern boundary of its EEZ, which lends even more credibility to its contentions. And by fortunate coincidence, the Israelis have relied on that very same source for their EEZ agreement with Cyprus (as have the Cypriots for their deal with Egypt).

Even on the issue of accepting CIL, there are signs that Israel may have relaxed its objections. In a March 2017 submission to the UN, the Israeli government said the dispute should be resolved "in accordance with principles of international law". The missing "the" before "principles" indicates that Israel may well be trying to cherry-pick which elements of CIL it wants to recognize, but the language offers hope that it is ready to be more flexible. Given that there may now be agreement between the parties on certain principles of CIL regarding border delimitation, this could be an opening for a Lebanese submission to the UN Secretary-General to ask that he put forward a proposal.

Even before the 2017 submission, there were already indications of possible Israeli movement. In the December 2010 EEZ agreement between Israel and Cyprus, the preamble refers to both provisions of UNCLOS and principles of international law of the sea applicable to EEZs, even though Israel has never recognized either UNCLOS or international law itself. The same document also allows for review and modification if

this is necessary in order to facilitate a future EEZ agreement acceptable to “the three states concerned”, which cannot be interpreted to mean anything but the signatories and Lebanon.



This is not to pretend that the case is cut and dry. On one issue in particular, Israel can be expected to stress that its EEZ Agreement with Cyprus is based on the same maritime starting point that Lebanon used in its own EEZ agreement with Cyprus, which was reached in 2007 but has not been ratified by Parliament. This, however, is basically the only gap in Lebanon’s legal armor in this case, and Beirut has several strong arguments with which to close it: Lebanon could counter a) that in line with the Article 18 of the Vienna Law of the Treaties, which forms part of CIL, the 2007 EEZ agreement is not valid and binding as it was never been ratified by the Lebanese Parliament; b) that point 1 was chosen as the starting point for demarcation of the Cyprus/Lebanese EEZ in order to avoid either implicitly recognizing Israel or giving it a pretext for unilateral action; and c) that the line was

never intended to be a permanent one, just an interim solution until a triple point is defined among itself, Cyprus, and Israel.

In short, the average Lebanese needs to know that a well-negotiated deal through third-party mediation or arbitration would mean a far bigger victory for Lebanon than for Israel. The latter, one should keep in mind, is already producing gas from offshore fields, so opening up new ones represents only an incremental gain, making delay less meaningful. Lebanon, by contrast, has yet to start reaping such rewards at all, so the impact of an early start means an instantly massive improvement on the status quo; the sooner it can do so without fear of Israeli aggression, therefore, the better.

There is always the possibility that Israel could seek to short-circuit any diplomatic process in which it feels unable to dictate the outcome. It might not even have to use military force to achieve its ends, only to keep tensions high enough so that no drilling can even take place.

Even a spoiling strategy could cost Israel dearly, however, by further eroding its standing in the international community, alienating key allies, and discouraging investment in its own energy sector. A shooting war would be even worse for Israel, especially since its vulnerable offshore gas facilities would figure to be the highest-value targets of any conflict and would be almost impossible to defend. It is difficult to imagine how any combination of Israeli political and military objectives in Lebanon could justify losing these facilities, which constitute one of the Israeli government’s most productive cash cows.

Once again, there are signs that Israeli officials have performed similar calculations. Most conspicuous has been the absence of Israeli drilling activity in the disputed areas: no licenses have been issued for any of the Israeli blocks that extend into waters claimed by Lebanon. At least for now, and

notwithstanding some of the more strident voices, most of Israel's leadership appears willing to take a wait-and-see approach.

To keep expectations in line with realities, then, Lebanese leaders need to be mindful of what they say in public. While being as transparent as they can for domestic purposes, they also must be politically astute to avoid compromising Beirut's negotiation position, sending mixed signals, and/or closing diplomatic doors. Measured rhetoric is not a common feature of the Lebanese political arena, but the country does have a first-rate diplomatic service, so perhaps some resources could be invested in a program of regular briefings seminars – for the president, prime minister, speaker, all Cabinet ministers and MPs, and relevant senior civil servants – on how to avoid such missteps, whether at a press conference or a gala dinner.

Apart from maintaining a united front and keeping the public informed, the other priority must be to leave no stone unturned in the search for a peaceful solution. This means that in addition to the US and UN avenues, Beirut would do well to enlist other participants as well, starting with the home countries (France, Italy, and Russia) of the companies forming the consortium that won the rights to Block 9. Then there is the European Commission, which knows full well that all of its member-states stand to benefit from the development of an East Mediterranean gas industry, which would diversify the sources of energy imports, improve the security of supply, and even put downward pressure on prices, adding higher living standards and greater economic competitiveness for good measure.

All of these players could potentially help mediate a formula that works for all concerned, but nothing is more important than reanimating and extending the US mediation role. Whatever one thinks of Washington's credibility as an honest broker in the Middle East, no other actor has its capacity to influence Israeli decision-making – and so to create sufficient time and

space for diplomatic efforts to mature.

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