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## The Israeli Gas Bonanza – Money, Interests, Democracy?

Dear readers,

In the past two decades, several gas fields have been discovered off the shore of Israel, including the most recent finds of the large *Tamar* and *Leviathan* reservoirs. With their estimated reserves of ca. 750 billion cubic meters of natural gas, those finds are not comparable to the large reserves of the major hydrocarbon producing countries in the region. However, by virtue of Israel's isolated geopolitical situation and the accompanying difficulties for energy supply, the discoveries are nevertheless of high significance for Israel's energy security.

Hence, questions regarding the development of the natural gas fields as well as gas market regulations spurred wide public debate. While implications for the biosphere as well as questions related to on-land distribution remain largely undiscussed, the main debate arises around the political decision-making process, distribution of revenues, and concessions for gas exports. The controversy has not only involved huge demonstrations, but has now also been taken to the Supreme Court, where Prime Minister Benjamin Netanyahu himself was heard in February.

For this issue of Israel Debates, we asked two authors to discuss this controversial issue in order to shed light onto the considerations involved and the interests at stake.

**Amiram Barkat**, senior financial reporter with the Israeli business daily *Globes*, believes that the gas yields high importance for energy security and foreign relations and thus requires a consistent regulation. This is why he considers the current dispute to be jeopardizing the trust of the companies that have already invested extensively into the off-shore gas explorations. According to him, the opponents wage an aggressive campaign that focuses on unreasonable demands and disregards the many actions that were taken to provide a transparent and democratic decision-making process.

On the other side, **Noam Segal**, Co-Founder and Executive Director of the Israel Energy Forum, argues that the public outrage is very well justified. Not only has the political process undermined democratic principles in terms of participatory, transparent, and constitutional procedures, but also have the lack of proper regulation and violations of antitrust law led to a monopolization of the gas market that gives preference to the companies over the public interests. Furthermore, he sees the envisaged export rates critical with regard to the satisfaction of domestic demands and Israel's future energy security.

In a general agreement regarding the importance of the development of the gas reserves for Israel's energy security, both authors disapprove the short-sighted handling of the finds by the Israeli government. They are critical of the lack of a long-term energy policy by the Israeli government as well of its failure to develop Israeli capacities for exploration, development, and operation in the natural gas sector up to now.

Dr. Werner Puschra,
Director, Friedrich-Ebert-Stiftung Israel

Herzliya, 13 March, 2016

## From Fantasy to Heated Debate, From Disenchantment to Acceptance – The Evolution of Government Policies and Public Opinion in Israel Towards the Natural Gas Discoveries

By Amiram Barkat

### Introduction

In my opinion, the natural-gas outline is an excellent example of a product of a democratic and evenhanded decision-making process. National interests are, of course, given priority in the outline, but other important issues are also taken into account and the decision-making process and considerations involved are disclosed to the public. Despite some considerable flaws, the outline seems to be the only practical solution to an acute crisis in the Israeli gas market. It was promoted by the government's political echelons with unusual resolve vis-à-vis criticism that was not always fact-based, and sometimes populist in nature.

### How Israel became a natural gas power

In the 1950s, crude oil was for the first time discovered in Israel in commercial quantities in the *Heletz* drilling near Ashkelon. Afterwards, government companies conducted hundreds of exploratory drillings but no additional crude oil or natural gas deposits were found on Israeli territory until the end of the twentieth century. In the mid-1990s government policy changed and began to advocate privatization and liberalization. Thus, the government sold off its holdings in E&P (exploration and production) companies and privatized the sector explorations for crude oil and gas through exploration licenses. In an effort to attract foreign investors, Israel very generously distributed exploration licenses for oil and gas on its territory, and promised extensive tax benefits. Nevertheless, major energy companies did not reveal interest in Israel; there was concern that activity in Israel would threaten their interests in the Arab world. One international company, BG, operated in Israel for six years but closed its offices in 2006 for unrevealed reasons. At the end of the 1990s, Israeli developers invited another international company, *Noble Energy*, which at the time was a small American company with no activities in the Arab countries.

In those same years, the search for natural gas reservoirs in Israel was renewed on the heels of gas discoveries in Egypt. Now the search focused on off-shore prospects, at first close to the shore but gradually the exploratory searches went further into the Mediterranean.[1]

In 1999, the partners in the *Yam Tethys* venture discovered a small natural offshore gas reservoir opposite the shores of Ashkelon; this received the name of *Noa*. A year later, the same venture discovered a larger reservoir called *Mari-B*. At about the same time, Israel's governmental electric company began the process of converting its diesel and fuel oil power stations to natural gas operation. A large bid for a long term natural-gas purchase contract was held among three natural gas suppliers: the *EMG Company* with the concession for importing gas from Egypt; the *BG Group* with rights from the Palestinian Authority in a gas reservoir opposite the coast of Gaza; and *Yam Tethys*. After a long struggle accompanied by political pressures, it was decided in 2001 that the *Israel Electric Corporation* would acquire half of the gas from

[1] Israel is not a signatory to the United Nations Convention on the Law of the Sea (UNCLOS) and has no recognized Exclusive Economic Zone. However, it does have a Delimitation of the Exclusive Economic Zone that was signed with Cyprus in 2010.

the Egyptian gas supplier, and the other half from the Israeli *Yam Tethys*. Thus *Mari-B* became Israel's only source of natural gas from 2004-2013.

Following the development of the first gas field, the partners in the *Mari-B* reservoir began to search for additional gas fields. *Noble Energy*, shareholders of *Yam Tethys*, together with Israeli businessman Yitzhak Tshuva's *Delek Group*[2], exploited the weak Israeli regulatory environment in order to accumulate a large number of exploration licenses beyond the number permitted by law. In addition, in some of the license-acquisition transactions, *Delek* and *Noble* did not ask the *Israeli Antitrust Authority* for an official exemption from the cartel (or monopoly) status – even though they already had numerous licenses. In 2008-2010, *Delek* and *Noble* conducted a number of exploratory drillings that yielded two major gas discoveries. The *Tamar* (2009) and *Leviathan* (2010) reservoirs were viewed as the largest deep-water gas discoveries in the world, in those years. In 2010-2012, the partners discovered smaller gas fields called *Karish*, *Tanin* and *Dolphin*. In that same time period, several additional developers conducted exploratory drillings in nearby offshore sites, but they all failed. And that failure led to the great disappointment of thousands of Israelis who invested in gas/oil exploration stocks on the stock exchange.

In 2012, after Hosni Mubarak's regime was destabilized, the flow of Egyptian gas to Israel was halted. *Delek* and *Noble* became Israel's almost sole gas suppliers. True, the government hurried to erect an off-shore terminal to facilitate the import of liquefied natural gas (LNG), but it was only able to supply a small percentage of Israel's gas consumption and at a relatively high price. Thus, as of today, Israel has no substantial supply of national gas aside from the gas reservoirs controlled by Mr. Tshuva and *Noble Energy*.

**The Israeli public and the gas discovery: From euphoria to reality**

It took rather a long time for the Israeli public to come to grips with the fact that *Delek* and *Noble* had a de facto monopoly on the Israeli gas market.

Throughout the years, Israel enjoyed an ambivalent attitude to energy resources. Since the establishment of the state, and especially after the 1973 energy crisis, the public witnessed the strategic power of the 'oil weapon' that was wielded by the Arab countries. This served to sharpen Israeli hopes for discovering oil and gas that would ensure the energy independence of the state. On the other hand, Israelis in that era tended to disparage wealth derived from natural resources, and instead glorify Israeli achievements in other spheres rooted in talents and hard work. Leaders such as Shimon Peres used to say, "our real natural resources are in our heads, not buried in the earth".

At first, the *Tamar* discovery generated elation in the public. Mr. Tshuva, a famous businessman of modest roots who earned his great wealth with the sweat of his brow, contributed to the euphoria when he announced that the gas field under his control would ensure Israel's energy independence for decades. Two years later, after the *Leviathan* discovery, Mr. Tshuva announced that Israel had now become an "energy power",

[2] Tshuva is controlling stockholder of the *Delek Group* Conglomerate that has a master limited partnership (MLP) with two companies: *Delek Drilling* and *Avner Oil Exploration*. As of today, *Delek* and *Avner* have about 32% of *Tamar* holdings, and about 45% of *Leviathan* holdings.

ready to export gas to other countries around the world.

But alongside the overall enthusiastic atmosphere, some of the public winds began to blow against the gas developers starting from 2010. The first battle was waged against the plans to construct an onshore treatment facility for *Tamar* gas, close to one of Israel's famous beaches. The struggle was a local one, mainly based on "Not In My Backyard" motives, and it succeeded: the plan for the facility was shelved.

The second, more important struggle erupted surrounding the work of the professional committee established by the finance minister at the beginning of 2010, with the goal of re-examining the fiscal regime on gas discoveries in Israel. The committee discovered that the historical tax breaks that had been promised to developers, led to an absurd situation in which the state would not receive any rent from the exploitation of its own natural resource. The committee recommended correcting this distortion by imposing a special tax, ranging from 20 to 50 percent that would enlarge the government-take from the oil and gas profits, from about one third to two thirds. Meanwhile, an anonymous campaign was waged against the finance minister and committee chairman involving personal mudslinging and attempts to insinuate that the committee served the agenda of the radical left and interests of foreign states such as Egypt. In the conflict over the tax raises, the finance minister was backed up by left-wing Knesset members, while most of the coalition members supported the investors. Prime Minister Benjamin Netanyahu avoided adopting a stance for a long time period, but on the heels of pressure inflicted on him by then governor of the Bank of Israel, Stanley Fischer, the prime minister finally announced that he was in favor of raising the taxation rates.

The hubbub surrounding the recommendations of the committee served to arouse (for the first time) the public feeling that "the developers are going to earn a fortune at the expense of the public" – a perception that rose again and again throughout all the disagreements on the gas-subject afterwards. For the first time, the public had access to forecasts and estimates regarding the scope of enormous revenues that the gas fields were expected to yield. These numbers, which ranged from 200 to 400 billion dollars, ultimately deepened the public understanding that this economic sector would have great importance in molding the face of the state in the coming years.

But the main change was beneath the surface: in essence, as a result of the dramatic increase of the government-take, the state became a senior partner in the future revenues of the gas reservoirs. It especially impacted on the finance ministry which is a dominant player in Israel regarding all structural changes of the gas market. In all the disagreements that erupted following the fiscal reform, the finance ministry adopted a favorable position vis-à-vis the developers because they felt that it was a very important national interest to speed up the development of the gas fields as quickly as possible.

Discussions on the gas tax issue revealed anachronistic legislation, poor grasp of professional information and lack of clear governmental planning and policy for the new economic sector that was created almost from thin air following the successes of the developers. As a result, Netanyahu called for a new committee to examine the possible restructuring of the future gas market (in October 2011). Among the many topics that were raised in the committee, one was the major focus of attention: whether to allow the developers to export gas. Again, the Members of Knesset from the opposition were front and center in the struggle against gas exports, but this time they were joined by environmental activists and organizations that attempted to posit professional rationales for supporting their premise: that the gas should be reserved for the Israeli market alone, and for future generations. The conflict over the gas export issue ended in 2012 with a compromise that permitted the developers to export gas till they reached 50% of Israel's reserves of natural gas. But the Knesset elections, and the petition (against the compromise) that was submitted to the High Court of Justice, served to drag out the discussions on the subject until the end of 2013. By that time, the export-quota for the developers was further reduced to about 40% of the reserves.

**The gas outline: Netanyahu's Gordian knot**

While the media focused on taxation, gas exports and other issues, another channel of debate existed on the structure of the new economic sector, with potentially dramatic ramifications. In September 2011, five months after assuming office, Antitrust Commissioner Professor David Gilo announced that he was commencing a probe to determine whether *Delek* and *Noble* had violated antitrust laws in 2007, during their transactions to acquire exploratory licenses. In other words, Gilo was concerned that *Delek* and *Noble* might constitute a de facto cartel or monopoly. It was in the wake of these licenses that the giant gas reservoir *Leviathan* was uncovered in 2010. Following Gilo's announcement, negotiations began between the Antitrust Commission and the developers in an attempt to reach a deal in which the developers would agree to open up the gas-reservoir market to competition, in exchange for the government's agreement to withdraw all legal proceedings against them. The negotiations between the sides led to the following agreement: that *Delek* and *Noble* would agree to sell *Tanin* and *Karish*, the two small gas reservoirs, but the large reservoirs of *Tamar* and *Leviathan* would remain under their control. These last two reservoirs together comprise more than 90 percent of Israel's gas reserves.

After the details of the agreement were publicized, the antitrust commissioner embarked on a long process of hearings on the agreement. Nine months later and after much vacillation, Gilo reconsidered and announced his withdrawal from the compromise and the subsequent renewal of the process of suing *Delek* and *Noble* for violating antitrust laws (restrictive trade agreement) – in other words, classifying their conglomerate as a cartel or monopoly. Gilo explained his startling decision by saying that during the hearing, he realized that the compromise-agreement would do far less to promote competition than he originally thought, while on the other hand, his non-signature on the agreement would cause less damage to the economy than he originally thought. Gilo's decision generated shock waves among the developers and the government as well, since throughout almost a year, they had operated under the presumption that the problem had been solved. The developers, who had been conducting negotiations throughout the year for exporting Israeli natural gas from *Leviathan* and *Tamar* to large clients in Egypt and Jordan, argued that Gilo's behavior not only endangered giant export transactions, but would also lead to the postponement of the development of the *Leviathan* gas reservoir by many years. Until additional gas fields are developed, Israel's gas supply is limited to one gas field, *Tamar*, which has been connected to the coast since 2013 through only one transmission route that is vulnerable to attacks and accidents. Another party that was very concerned about these proceedings is the American administration, which served as the central mediator in the negotiations with Jordan for the signing of the gas agreement. The Hashemite Kingdom suffered greatly from the severance of its natural gas supply from Egypt in 2012. That event caused great economic damage to the Jordanian economy and a sharp rise in electricity tariffs to consumers in the country.

At this stage, Prime Minister Benjamin Netanyahu (who was in the midst of an election campaign) intervened. He appointed the head of the National Economic Council, Professor Eugene Kendall, to formulate a solution to the crisis. Kendall cobbled together a team with the representatives of the various ministries, including Gilo, and the team formulated new arrangements to restructure the natural gas market. The main changes were: selling of the small *Tanin* and *Karish* fields; the farming-out of *Delek Group's* holdings in the *Tamar* field within six years; and reducing *Noble's* holdings in *Tamar* from 36% to 25%. Similarly, the developers agreed to ceiling prices on future gas agreements and a firm timetable to developing the *Leviathan* field. In exchange, the state agreed to grant the developers an exemption from cartel status, and promised the developers that it would not initiate further regulatory changes pertaining to the gas production sector (except for environmental protection issues) for ten years. In addition, the state promised to oppose all non-government legislative initiatives that would seek to make changes in the regulatory regime. The new arrangement, called "the gas outline", was accepted by the developers – but Gilo opposed it. In May 2015, Gilo announced his decision to resign.

The resignation of the antitrust commissioner created a complex legal morass for the government. The process of finding a replacement for Gilo could take several months, and any future replacement was likely to refuse to sign an outline that Gilo had opposed. The only way the government could resolve the issue was to adopt the precedent-setting step of invoking article 52 of the Antitrust Law, which allows the economy minister to sign the agreement instead of the antitrust commissioner. However, this article may only be invoked under two conditions: the first is for "foreign policy or security reasons", and the second is that the economy minister must consult with the Knesset's Economic Affairs Committee.

Netanyahu convened the Diplomatic-Security Cabinet which determined that there are, indeed, foreign policy and security considerations justifying the use of Article 52. At this point, another complication emerged in the form of the economy minister who refused to sign the agreement, despite the fact that he had voted for it in the government and the Knesset. The economy minister claimed that he "could not take sole responsibility" for authorizing such an important and complex agreement.

Netanyahu convinced the economy minister to resign his post for another function in the government; then Netanyahu himself assumed the portfolio. As the new economy minister, Netanyahu invoked Article 52 and the agreement was brought to the Knesset's Economic Affairs Committee which discussed it for about a month. The parliamentary committee, which is controlled by the opposition, heard the positions of all the officials involved in the outline as well as those of the activists and organizations opposing the outline and, finally, the prime minister himself – and recommended not to authorize the outline. However, their recommendation has no binding validity, and Netanyahu chose to ignore it. The opponents of the outline then petitioned the High Court of Justice, which may intervene and even revoke it by approving a non-competence ruling, if it will be convinced that the government and economy minister acted out of lack of authority or in an extremely unreasonable way. The first discussion on the petition took place on February 14th.

**Why the opponents of the natural gas outline are mistaken**

The campaign against the gas outline was broader and more aggressive than all challenges to government proceedings in the past. This campaign included: mass street demonstrations on a weekly basis, intensive activity on new media sites, even pulling its weight on television investigative programs. The opponents disseminated video clips and series on the internet, which had great impact on the public. The natural gas outline opponents tried to instill one central message in the public consciousness: that the government is betraying the public trust by advancing an agreement that only serves the economic interests of the developers (branded as "the tycoons"), at the expense of the public interest. Several prominent figures in the campaign accused the supporters of the outline, the government and the media, of operating in the services of the magnates: either for direct payment, or out of the expectation of receiving some kind of payment in the future. One spokesperson of the main organizations involved in the campaign against the outline, even publically threatened government officials who formulated the outline, saying his organization would submit a complaint to the police, if they were to accept job offers with a gas-company shareholder in the future.

In order to convince the others, the opposers presented arguments culled from a number of fields. They argued that *Delek* and *Noble* are likely to gain gigantic profits from future natural gas revenues. They presented inflated estimates based on maximalist assumptions (with regard to the price of gas as well as pace of its sale; these two factors determine the net capitalized value of the gas fields). However, they "forgot" to note one important fact: that according to the existing taxation regime, only a third of future profits will reach the hands of the developers, while the state will rake in about two thirds. On the public front, the opponents claimed that the approval-process of the agreement itself was problematic, even anti-democratic, mainly because the public was never given access to the full protocols of the talks between the developers and the government. This lack of transparency came about because then-antitrust commissioner David Gilo resigned, and the term of office of another regulator who opposed the outline was shortened, as a result of structural changes. Other arguments addressed shortcomings and errors in the professional opinions of government officials – opinions that had served as the basis for the Cabinet's determination that 'foreign policy and security considerations' justified the authorization of the outline.

In my opinion, these arguments are not serious. I find the demand to reveal protocols of meetings between the developers and government officials to be unreasonable. Many steps were taken to create transparency in the entire process and I feel that these measures were sufficient: First, a public hearing ensured that the opponents were given the opportunity to voice their positions to the committee that prepared the outline before its final consolidation. Second, the agreement itself was published in its entirety. Third, the log book of meetings of the team members who formulated the outlines and minutes of the meetings were publicized. Fourth, all the officials who were involved in preparing the outline, appeared before the Knesset committee and were thoroughly questioned on their considerations; the prime minister himself appeared before the committee and answered the questions posed to him. The fact that a commissioner resigned because he did not agree to an outline hammered out by all the other regulators, seems like an obvious course of action to me and is certainly not evidence of illegitimate pressures. Regarding matters of public policy: except for the fact that a few of the papers contained factual errors, it seems to me that it is almost self-evident that Israel has a diplomatic interest in being able to supply natural gas to neighboring countries in dire need of such gas, such as Turkey, Jordan or Egypt. The stance of the American administration, which almost openly favored the outline and was deeply involved in promoting the gas agreement with Jordan, constitutes satisfactory proof of the existence of public policy and security considerations. In the economic sphere, opponents argued that the price of gas to consumers is exaggerated; this is partly the result of a linkage formula for the price of gas, which ensures that the price will only go up, not down. They called to institute price-control and lower the price of gas by 50%. The problem with this demand is that cumulative experience from other countries has shown that price controls usually backfire and harm the consumers, because it would prevent the continued development of the gas industry.

On the legal level, opponents argue that if the *Noble-Delek* monopoly is not dismantled now, these companies will retain great power that could allow them to influence decision-makers in the future. The answer to this argument is more complex. First, it is important to note that one of the two controlling shareholders of the two main fields, the Israeli *Delek Group*, agreed to sell its holdings while the second partner, the American *Noble Energy Company*, agreed to gradually reduce its holdings as well. From my own inquiries, I discovered that the Energy Ministry is the primary opponent to removing *Noble,* which operates *Tamar,* from the *Leviathan* reservoir deal. They feel that such a step would constitute a precedent that would discourage other operators from working with Israel. It was difficult enough to find a company with the requisite knowledge and know-how in the gas field to agree to work in Israel and if *Noble* is removed, it may be impossible to find another operator in its stead. In my opinion, it is not correct to place so much emphasis on the need to create competition in the gas sector, in light of the characteristics of the specialized sector: its strategic importance and high entrance bar. Finally, to complete the picture, it must be noted that few countries in the world were able to develop real competition between various natural gas producers.

The government and prime minister deserve scathing criticism for the fact that they have not crafted a long-range policy for the gas sector, and do not try to deal with Israel's almost complete dependency on foreign expertise for discovering, developing and operating gas reservoirs. Only the development of Israeli capabilities in gas production will lead to restricting Israel's dependence on foreign companies and increasing the added value of this developing sector to the Israeli economy. The various Netanyahu governments have not bothered to advance such a policy over the years, and did not create a vision for increasing local demand for gas. This testifies to short-sightedness, viewing reality through the perspective of the developers alone, and lack of faith in the government's ability to replace the private market.

The public discourse surrounding the gas outline was scathing and stormy, sometimes even harsh and hostile – yet important, almost obligatory. If the public will ultimately internalize the insight that compromises are sometimes necessary in strategic policy for the benefit of the public interest, then we will be able to say in retrospect that the gas outline constituted an important stage in the maturation of the Israeli public.

***Amiram Barkat*** *is a senior financial reporter with "Globes", Israel's oldest business daily. He writes extensively on macro-economic issues with particular interest in energy. Mr. Barkat covered energy and transportation for Globes between 2009-2014 - during that period he reported on the major natural gas discoveries in the Israeli offshore and the controversies which accompanied the transformation of Israel into a resource-rich country.*

## Israel's "Gas Deal": Democracy at a Crossroad

By Noam Segal

### Overview

In a matter of days or weeks from now, the Israeli Supreme Court will be making one of its landmark rulings that will strongly affect the country's social, economic and geopolitical future. This court ruling will conclude more than three years of heated public debate in Israel, regarding its recently-found natural gas deposits; a debate extending far beyond any public policy issue the country has known in the past. In the chain of events leading to this point in time, two senior commissioners and one senior minister have been removed from office, the Israeli antitrust legislation has been put aside and so were the Knesset and the Israeli public.

The appeal submitted to the court by a number of Knesset Members, civil groups and activists is asking the court to abolish what may seem like a technical decision by the Israeli government not to press charges against the two major natural gas companies operating in the country for violating Israel's antitrust laws. What then is the reason that in recent months has taken tens of thousands of Israeli citizens to the streets of Tel-Aviv and several cities around the country, protesting the government's policies in the natural gas market, and that mobilized Prime Minister Netanyahu, who has in an unprecedented move appeared before the court himself in this case?

The stakes are extremely high in this debate due to the significance of a resource such as natural gas to the State of Israel. Affordable, abundant energy supply is of course essential for economic development and economic growth and the projected proceeds from natural gas sales will contribute to the national budget. Yet, these domestic gas reserves have even greater significance for the State of Israel, due to its geopolitical position and isolation in the conflicted Middle East region. The gas findings provide Israel with energy independence and energy security, reducing its dependence on imported fuels.

Israel is not and will probably never be a major global oil and gas producer. And indeed, looking from abroad, the attention over the current turmoil in Israel regarding its natural gas market may seem peculiar. On one side of the debate stands the Israeli government - under pressure by the local and global gas industry - making immense efforts to export more than half of the country's gas reserves to prospective consumers in Europe and possibly other countries. On the other side stands the Israeli public, protesting the government's plans in mass demonstrations across the country. The government says that the gas exports and additional benefits it is willing to provide to the gas companies are crucial for the development of the gas sector, will stabilize Israel's energy market and contribute significantly to the country's energy security and to Israel's geopolitical standing in the region. The public, however, is concerned that the government's export plans will lead to quick depletion of Israel's limited gas reserves, putting the country's energy security at risk. The public is also critical of the non-democratic and non-participatory way the government has taken to approve its plans. The gas sector in Israel is controlled by a strong monopoly, which is to become even more powerful if the government's plans are approved. The public is concerned of the monopoly's impact on Israel's political system, on the country's future decision making processes, and its fragile democratic system.

The third party to the debate is the oil and gas companies themselves. The companies complain about the regulatory reforms the Israeli government has introduced in recent years to the energy sector, which they describe as too frequent and as de-stabilizing. Having billions of dollars invested at a high risk endeavor such as oil and gas explorations and development, the companies are demanding that the government will not make any additional regulatory changes in the energy sector. An inherent conflict remains between the gas companies' primary goal, to monetize as much of the gas as soon as possible and maximize profits, and the public's interest in exploiting the country's gas reserves over the longest possible timeframe and at affordable prices.

**Background**

In 2009 and 2010, two deep-water super-giant natural gas deposits (Tamar and Leviathan) were discovered in Israel's Exclusive Economic Zone in the Eastern Mediterranean, a discovery which has excited many in Israel and around the world. For several decades, oil and gas explorations in Israel have repeatedly failed, while some of its neighboring countries in the Middle East have become the world's largest hydrocarbons producers. It was only in the late 1990s, thanks to new seismic modeling technologies and improved deep-water drilling and extraction methods, that Israel was able to develop and exploit energy resources of its own, providing the country with a level of energy independence that it has never experienced in the past.

A newcomer to the small club of oil and gas producing nations, Israel had little knowledge of how these resources should be managed. The new significant natural gas discoveries presented the Israeli government with major policy challenges such as the distribution of revenues, gas exports and energy security, optimal market structure, sustainable primary energy supply, environmental concerns, and natural gas pricing. Natural gas provides a major opportunity for Israel to develop its industry and boost economic development but at the same time, possible macroeconomic implications, such as the risk of Dutch disease, arise. Natural gas is a much cleaner fuel for electricity generation than coal and oil, contributing to the reduction in ambient air pollution. However, gas remains a finite, greenhouse-gas emitting fossil fuel, which in the long-run must be replaced by more sustainable renewable energy sources such as solar and wind energy. The fact that Israel does not have an official energy policy, and that its energy market is dominated by the interests of the governmentally-owned utility (the Israel Electric Corporation), presents additional challenges to the country's energy future. While domestically-produced natural gas has become Israel's primary fuel for power generation, providing more than half of the country's annual electricity demand, the Israel Electric Corporation refuses to shut down its large, coal-based power plans which provide employment to many of its workers, and replace those with efficient and much less polluting gas-based power plants.

Rather than adopting an overarching model for this new industry, based on the established experience of other oil and gas producing nations around the world, such as Norway or Holland, the Israeli government has decided to gradually shape its own policies in the gas market, as the need for such policies grows. And indeed, in 2010, then Finance Minister Yuval Steinitz, backed by Prime Minister Benjamin Netanyahu, has appointed the first public committee (the Sheshinski Committee) to explore policy options in the natural gas market that would lead to increasing the public's share in the gas proceeds (government-take).The committee's recommendations have eventually led to the legislation of a windfall profits tax on oil and gas production in Israel (the Sheshinski Law).

In 2011, former Water and Energy minister Uzi Landau has appointed yet another committee (the Tzemach Committee), in order to pave the way for gas exports from Israel, until then prohibited by Israeli law. The controversial Tzemach Committee's recommendations have led to a government decision in 2013 that allows for the free exports of natural gas from Israel, excluding a reserve of 540 billion cubic meters of gas to be kept for domestic use, equivalent to the country's projected gas consumption for 29 years ahead.

Yet, one major policy area the Israeli government has failed to address is the natural gas market structure. In the 1950s, Israel has adopted a privatized, free-market approach to its oil and gas market, granting private companies with concessions for oil and gas exploration and production. While the Israeli 1952 Oil Law states that the country's oil and gas resources belong to the Israeli public, it is private companies which sell the gas to domestic consumers on a free-market basis, with essentially no governmental intervention and consumer protection. Due to poor regulation, two gas companies working together in the Israeli market, the U.S. based Noble Energy Company and the local Delek Group, have jointly acquired more than 60% of Israel's potential exploration and drilling rights over the years. The two companies, with additional minor partners, have established a powerful monopoly, controlling 98% of Israel's known gas reserves including the two super-giant gas fields Tamar and Leviathan.

In 2011, the Israeli Antitrust Authority (ATA) has started investigating possible antitrust law violations by the two companies while acquiring the drilling rights in the Leviathan field. The ATA has concluded its investigation in March 2014, proposing a deal to Noble and Delek, in which the two companies will remain the owners of the Leviathan gas field, but in exchange sell two small gas fields (Karish and Tanin) to a third company, which would potentially compete Delek and Noble. In December 2014, after submitting the proposed deal to public hearing and receiving the public's comments, the Antitrust Commissioner Prof. David Gilo decided to step back from his initial proposal, and possibly press charges against the companies for violations against antitrust laws.

It was at this point in time that the Israeli government has decided to intervene directly in the antitrust procedures. In July 2015, after six months of inter-ministerial debates, Israeli Prime Minister Benjamin Netanyahu himself, together with now Energy Minister Yuval Steinitz, presented a new "gas deal" on behalf of the government. The new proposed deal includes several benefits to the gas companies beyond the ATA's deal, the most significant of which is the government's obligation to grant these two gas companies immunity from prosecution over past – and future – violations of antitrust laws.

But will the Israeli public and the Israeli economy benefit from the gas deal? Do the claimed advantages of the "gas deal" outweigh the major disadvantages? The "gas deal" is very problematic, to say the least, as the Israeli public will gain very little if at all in return for the extremely high concessions the government is giving to gas companies. In fact, by risking the foundations of the country's energy security, the gas deal will probably achieve the opposite goals that a sound, long-term energy policy would have set, had Israel formed one.

### The "gas deal"

Proponents of the gas deal state that it will provide investors and the gas companies with the level of certainty required to attract foreign investments to further develop Israel’s gas market and the Leviathan gas field in particular. Furthermore, it is claimed that the gas deal will achieve many additional benefits. The government assumes that the gas deal will create a competitive natural gas market in Israel, reduce gas prices, improve the country’s geopolitical position in the conflicted Middle East region, and contribute to both the country's national security and energy security.

Yet, a critical examination of the "gas deal" casts some serious doubts over the feasibility of the deal and in particular in achieving its stated goals. The gas deal does not provide the public any assurance that the Leviathan gas field is indeed developed by Noble and Delek – one of the primary stated goals of the deal. In fact, the gas companies are already required by the existing Oil Law to develop the gas fields over a period of 4 years, and the gas deal only worsens the prospects for the fast development of Leviathan as it extends the timeframe set by the law well into the next decade.

On the other hand, the gas deal encourages the immediate and extensive export of natural gas from Tamar, currently the sole producing gas field in Israel. This decision contradicts the Israeli government position in 2013, banning gas exports from Tamar prior to having Leviathan developed and connected to the onshore transmission system. At the time, the Israeli government pointed at Tamar's strategic importance as the sole producing gas field, stating that early exports from this field puts Israel's energy security at risk.

Israel is considered an "energy island", due to its unique geopolitical position in the region. Israel cannot connect its electric grid to any of its neighboring countries, and for the very same reason, is unable to purchase primary fuels such as oil and natural gas from the major global oil and gas producing countries namely Saudi Arabia, Iran and Qatar. Since the oil crisis of the 1970s, Israel has made significant efforts to diversify its energy sources: First in the early 1980s, by shifting from oil to coal as primary fuel for power generation, and later on, in the late 1990s, by introducing natural gas to the country's fuel mix. Therefore, the significance of domestic energy sources such as the Tamar and Leviathan gas fields to Israel’s energy security cannot be overstated. The two fields can provide the country with energy independence in the power sector and potentially in the transport sector as well for a period of more than 40 years, serving as transitional fuel providing Israel with significant time to diversify its energy market and develop alternatives such as wind and solar energy. The government's decision in 2013 to export large quantities of natural gas, further extended by the "gas deal" would then contradict the stated objective of the deal itself, to strengthen Israel's energy security. At the same time, while the Israeli government points at countries like Egypt, Jordan and Turkey as potential export markets, officials in those countries have clearly stated that they have no intention to purchase gas from Israel, as long as the Palestinian-Israeli conflict is unresolved.

### The public protest – what does the public want?

The "gas deal" proposed by the Israeli government, has caused major public objection, unprecedented for such a complex policy issue. Unlike the public protests of the summer of 2011, in which hundreds of thousands of young people took to the streets in protest of rising housing and living expenses, the impact of Israel's natural gas policies on the public is much less apparent. Nevertheless, tens of thousands of people from various backgrounds are taking part in the gas protests, through mass demonstrations, the media, and direct interaction with decision makers.

The public is particularly concerned of the massive exports of Israel's natural gas, endangering its energy security. The public is also alarmed by the immense power the gas monopoly is gaining over the Israeli economic and political system that many believe threatens the very foundations of the country's democratic system. Critics of the gas deal say that in fact the government does not have any way of enforcing the gas companies to comply with the gas deal and develop the fields. The government has only introduced minor milestones requiring the companies to show investments in the development of the gas fields, but even if they do not comply with those requirements, the deal remains.

**Netanyahu's position – breaking the rules of democracy?**

Yet, one of the most intriguing questions regarding the "gas deal" is Netanyahu’s personal involvement. As an extreme supporter of neo-liberal ideology and a free market approach, Netanyahu is acting in exactly the opposite way: supporting the gas monopoly in its attempts to overcome the Antitrust Authority's intention to introduce competition to Israel's gas market. It is interesting to follow his efforts to pass the "gas deal", providing anti-democratic statements such as "when I want something - I get it" and dismissing his opposition as “populism”.

Since the ATA's announcement in December 2014, rejecting the deal with the gas companies, Netanyahu has been personally involved in all matters concerning the natural gas market, for the first time in the six years since the discovery of Tamar. In June 2015, it was Netanyahu who presented the "gas deal" to the public, throwing his full weight behind the proposed deal. In order to do so, he has removed the ATA and Public Utility Commissioners from office, forcing the Minister of Economic Affairs to resign, so that Netanyahu is allowed to use a special clause in the Israeli antitrust law to approve the gas deal.

The reasons for Netanyahu's involvement in the "gas deal" are not clear yet. According to various media reports, outside pressures were applied on Netanyahu by the U.S. administration, including by U.S. Secretary of State John Kerry and U.S. Vice President Joe Biden. In the past, Energy Minister Yuval Steinitz has revealed similar pressures, including lobbying efforts by U.S. President Bill Clinton, hired by Noble Energy. Additionally, it is said that the U.S. Representatives of the American embassy in Tel-Aviv have met with several law makers in an attempt to convince them to support the deal and U.S. Congressmen have done the same while meeting with Israeli President Reuven Rivlin. In February, Netanyahu appeared before the Israeli Supreme Court, in yet another unprecedented move.

**Where do we go from here?**

Ultimately, in the coming days or weeks, Israel would know where its gas market is heading. Should the Supreme Court accept the appeal by Knesset Members and civil groups, the Israeli government will have to deal with the gas monopoly using the existing legal tools. But even if the court rejects the appeal, there is much doubt whether the deal will in fact materialize.

With Egypt developing its own newly-discovered gas fields and the grim option that the diplomatic relations between Israel and Turkey will improve in the near future, a state which will enable the construction of the needed infrastructure and future trade in energy seems farfetched. Israeli decision makers in both the Ministry of Energy and the Ministry of Environmental Protection are now considering policies that will increase consumption of natural gas in the domestic realm, the transport sector, and the industry.

While Israel has made some questionable choices in its natural gas market, the anti-trust inquiry provides the country with the opportunity to re-evaluate its policies and adopt a better model for its gas market. Only time will tell whether Israel's hydrocarbon market will follow a successful European model such as the Norwegian or the Dutch models or if it will follow the fate of developing nations whose natural resources are exploited by international corporations leaving little benefits to the local population.

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