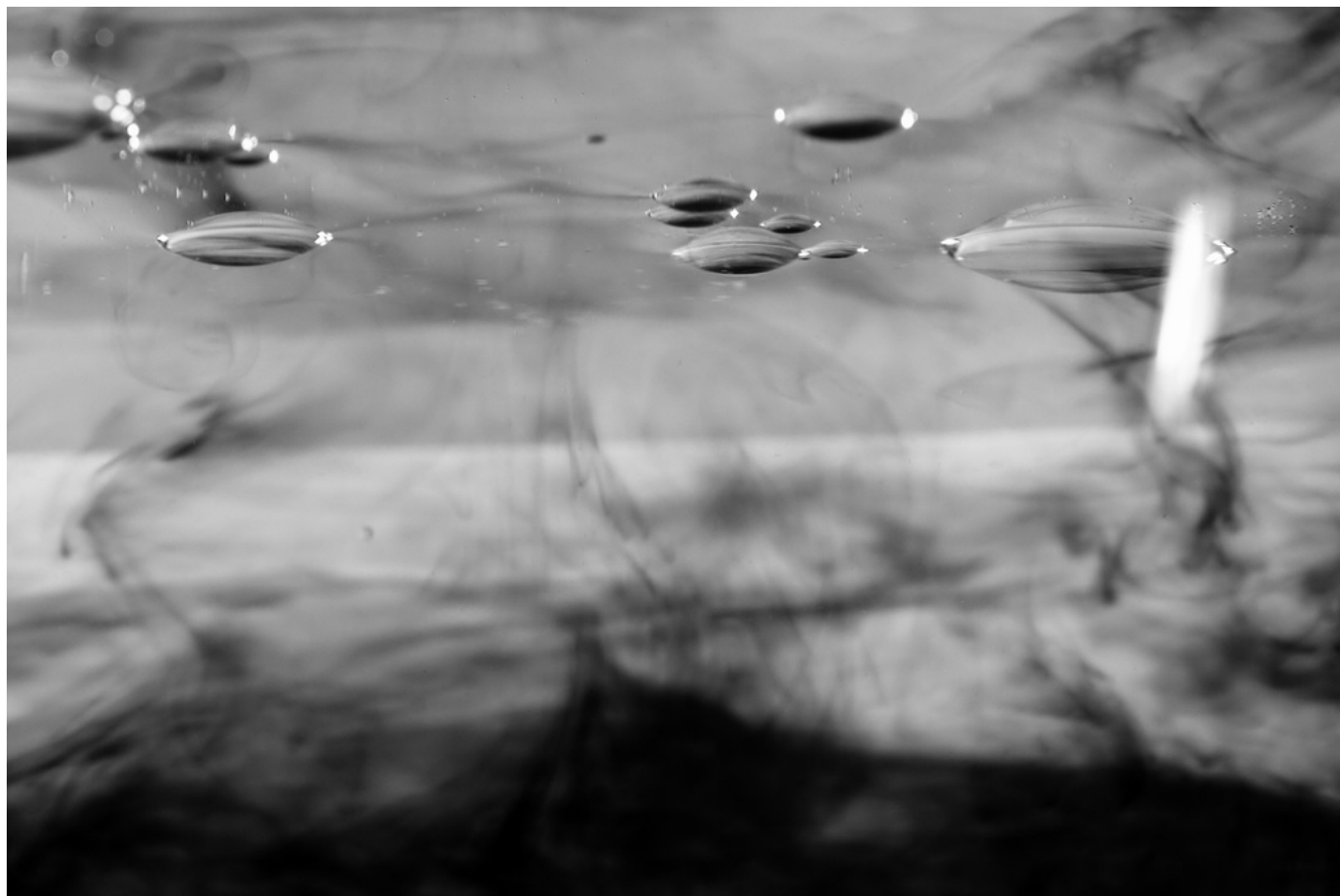


Not just a pipe dream

Using existing global standards, transparency in Lebanon's oil and gas sector is possible

ECONOMICS & POLICY January 22, 2015 by Jeremy Arbid



Can transparency mix with Lebanon's oil and gas sector? (Thomas Claveirole | Flickr | CC BY-SA 2.0)

Even though Lebanon's first offshore licensing round is on hold indefinitely, each passing month highlights the necessity for transparency and accountability in managing the country's potential oil and gas resources. When Executive asked questions about the Lebanese firms prequalified to bid for petroleum contracts in its October 2014 issue, it found evidence that Apex Gas Limited exploited loopholes to conceal its corporate identity and that Petroleb blatantly expected government connections would result in it winning a bid.

In conducting this investigation, Executive encountered tremendous resistance from both the government entities organizing the sector and the companies in question.

Executive found that civil society, with some

Likewise, Executive found that civil society, with some exceptions, is failing to hold the country's oil and gas decisionmakers to account, with many NGOs largely uninformed and unaware of the information relevant to transparency and, ultimately, still relatively clueless as to their role in the governance of this sector.

exceptions, is failing to hold the country's oil and gas decisionmakers to account

On one end, the problem was, and still is, a lack of communication of information by the government to the public, breeding mistrust and discouraging confidence in the government's ability to transparently manage this sector — all at a time when political squabbling is further complicating matters. And on the other end, another roadblock is civil society's incompetence and general lack of interest in the subject. If civil society can overcome these obstacles, however, it may be able integrate itself into the governance of this sector — and the international Extractive Industries Transparency Initiative (EITI) is one useful tool to this end.

EITI allusions

In October, what should have been a commercial conference on Lebanon's potential oil and gas resources was instead downgraded to a day focused on civil society's role in governance of the nascent sector. It was, according to a post-event recap on the Lebanese Petroleum Administration's (LPA) website, a display of "support, faith, commitment and constructive inputs provided by our decision makers, local partners, civil society and academic institutions, as well as our media."

Though the Lebanese government **has not formally announced** its intention to implement EITI standards, it has alluded to this intent on several occasions. Most recently, Lebanon's minister of energy, Arthur Nazarian, welcomed the conference audience by stating that Lebanon will "explore what implementing the EITI will mean" for the country in embarking "on such a cooperation without having discovered any oil or gas yet."

The LPA had also commissioned a study on the feasibility of implementing EITI standards, carried out by the Beirut office of international NGO Natural Resource Governance Institute (NRGI), but has not released comments on the findings of the study. With intent signaled by both the LPA and the Ministry of Energy, the Council of Ministers could also formalize its intentions — announcing intent is the necessary first step towards EITI implementation.

The LPA had also commissioned a study on the feasibility of implementing EITI standards

These positive indications of implementation, and through the spirit of invitation subtly extended during the conference, thrust civil society into a role of articulating the merits of the EITI, its applicability to the Lebanese context, and its benefits to the interest of the country at large — inclusive to government and company stakeholders.

Trust through cooperation

What the EITI provides — which has been articulated recently in contributions by Lebanese civil society leaders ([here](#), [here](#) and [here](#)) to Executive on the subject — is not a parallel reporting mechanism but rather an outlet for disseminating information already collected, ideally, by a government. In many countries, explains Pablo Valverde, country manager for the Middle East and North Africa at the EITI Secretariat, this information doesn't exist, so the EITI can also serve as an assessment tool for governments to see what kind of information they should be making available as well as helping make the information they already collect accessible. "As with everything else in the EITI Standard, the ideal is that you wouldn't need a parallel reporting system like the EITI because all of this would already be available through the government," adds Valverde.

Read also: [Beyond EITI — Lebanon needs better institutions, not just greater transparency](#)

If a government is already collecting EITI-relevant information it is therefore, by definition, not a radical concept. Likewise, those who fear the government might begin the implementation of the EITI only to stall assume that civil society or companies are not active partners in the process — though the tripartite cooperation is an absolute requirement of EITI candidacy and implementation. These notions are exactly the opposite of the governance environment the EITI fosters — transparency by building trust through cooperation.

The act of providing access to information is a key step towards improving transparency in the governance system, says Valverde, adding that "sunlight is the best disinfectant; having the information available is the best way to limit corruption. The government can say 'Look, this is not the way it is in this case,' but how do you prove it? Well this is a way of proving it."

The act of providing access to information is a key step towards improving transparency

Trust in the government is essential to the management of this industry. "It's important because of our past experience in Lebanon and the very intimate relationship between the political and the economic elite — many times they are one and the same — whereby government contracts are actually awarded to those who are in power or close to power," says Sami Atallah, executive director of the Lebanese Center for Policy Studies.

Much of what currently qualifies as EITI requirements includes information on the overview of payments made by companies to the government and overview of payments received by government from companies, allocation of exploration and production rights, well production data, and the social impact of the industry — to broadly name a few. Yet EITI standards form a live organism, constantly adapting to developments around the world —

one such development is that of beneficial ownership.

On the horizon

The disclosure of beneficial ownership is a relatively new concept and the value of its application is not yet fully appreciated — pilot projects in EITI implementing countries are navigating the unknown path with project evaluations commencing in 2015, and plans to make beneficial ownership a reporting requirement shortly thereafter. “There’s a really good argument here in that, ‘This is coming, this will most likely be a part of the EITI Standard in the future’ — so countries that start doing it now will have a head start,” says Valverde.

Simply put, beneficial ownership refers to those controlling benefactors of a company — the individuals behind the scenes. There can be many entities with stakes in a company, so a precise definition of beneficial ownership is the prerogative of the national multistakeholder group (MSG) — a collection of representatives from local government, companies and civil society overseeing the EITI implementation process. “What the MSG would need to figure out is how far it would be logical for them to go. Is it necessary to identify each and every owner? Maybe only those that own more than a certain percentage are of any consequence?” explains Valverde.

“The international companies usually have this information in the open,” says Diana Kaissy, MENA coordinator for Publish What You Pay, and EITI standards acknowledge this. Norway’s Statoil sets an example for disclosing beneficial ownership. The company keeps track of beneficial ownership to a threshold of 5 percent, reporting on its website that only the Norwegian state surpasses this threshold — owning roughly 70 percent of the company.

Read Diana Kaissy’s article “Extracting transparency — Lebanon’s oil industry must not be shrouded in secrecy” published in this year’s January issue

“For the government of a resource rich host country it can be important to know to whom exclusive exploration and production rights to national resources are awarded. It can be considered a matter of resource management,” explains Tonje P. Gormley, a lawyer at Norwegian law firm Arntzen de Besche who specializes in international petroleum law and is a frequent speaker at Lebanese conferences. The LPA ensured just that when it required the details of partners or shareholders with an interest of more than 20 percent, as part of its prequalification application process in the country’s first offshore licensing round last year. The Lebanese government is already collecting beneficial ownership information.

Close ties

In many cases throughout the global oil and gas industry

“We want to know that

those companies bidding for — and sometimes winning — petroleum contracts have close ties to the government through connections that influence the award. These companies can mask the identity of their ownership: “They’re hiding behind companies and law firms, behind shell companies or even entities that do not exist,” explains Laury Haytayan of NRGI.

company won the contract because it had a competitive bid, not because it had the connections”

It is the right of the individual, in Lebanon and elsewhere, to invest freely in the country — in its resources, its businesses and its people. But what raises concerns for civil society is when individuals leverage their connections to win contracts while hiding their complicity in doing so. As Atallah puts it, “We want to know that company won the contract because it had a competitive bid, not because it had the connections.”

“It’s especially important for state owned enterprises entering joint ventures that might not be 100 percent owned by the government ... or companies that are local service providers. These are the companies — their names and owners — to be listed,” Kaissy explains. Valverde expressed a similar notion saying, “In some countries you can look at the smaller company in a joint venture and think ‘Okay, why is this company even here, what do they bring to the table?’”

When Executive surveyed the companies bidding in Lebanon’s licensing round late last year, **it uncovered evidence of both scenarios** — the ownership identity of Apex was obscure, while Petroleb’s leadership outright proclaimed their competitive advantage to be government connections.

Preventing suspicions

Determining the application of beneficial ownership towards improving transparency is ongoing. Haytayan explains that “this is another way of building trust, rather than ownership remaining a mystery and frustrating citizens into believing that people from the government are stealing their resources.”

Yet, as a point of strength, beneficial ownership is a useful tool for all stakeholders. Where the primary goal in utilizing such a tool is in mitigating corruption, it also carries corollary value. “Some host countries prohibit certain persons — such as government officials of a certain seniority, parliamentarians or judges — to hold petroleum contracts. In such cases disclosure of beneficial ownership can ease monitoring of compliance,” Gormley explains, adding that, “Even without such prohibitions, disclosure of beneficial ownership may reveal that one or more owners of a company [are] very closely linked to the government — and this may give reason to question whether such [a] company is treated in a more preferential manner than other companies. At the same time, disclosure of beneficial ownership in combination with transparent awards of exploration and production rights may also prevent unjustified suspicions of corrupt behavior and thus contribute to building trust.”

Gormley points out that tax evasion can also be an issue. In fact, in 2013 OpenOil, an organization advocating transparency in the oil industry, **evaluated the utility of disclosure of beneficial ownership** using a Norway EITI country report from 2011, an ideal scenario. Data from the report broke down tax transactions to determine jurisdiction of parent companies, often the first step in uncovering the ultimate beneficial owner hidden layers below the apparent surface. The study also concluded that this information was useful for governments to determine “how much revenue fell outside double taxation treaties.”

The means to scrutinize

Accountability is only possible when actors make use of information made available through standards such as the EITI. Nongovernmental organizations will need support, including financial and technical assistance, if they are to champion transparency for this sector, not limited to the EITI requirements — but this highlights a need to further calibrate civil society’s interorganizational knowledge and capacity.

One such proposal to kick off this capacity building process could entail a roundtable or workshop for media in interpreting the information found in EITI reports. In fact, strengthening accountability and transparency will be core components of capacity building support which the Norwegian government will provide to Lebanon in 2015, targeting “the main transparency actors, such as decisionmakers, civil society organizations, the media, as well as public control institutions, including parliament,” the Norwegian Ambassador to Lebanon Svein Aass wrote in a recent contribution to Executive.



Jeremy Arbid

Jeremy is Executive's in house energy and public policy analyst.

