

MARITIME STRATEGIC EVALUATION FOR ISRAEL 2022/23

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The Delimitation Agreement Between Israel and Lebanon – Challenges and Achievements

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On October 27, 2022, the Government of Israel approved an agreement for the permanent delimitation of a maritime boundary line ("MBL") between Israel and Lebanon and immediately thereafter, at the U.N. base in Naqoura, representatives of both Israel and Lebanon signed the necessary declarations to officially approve the agreement. The negotiations leading to this agreement were mediated and facilitated by the United States. The consequential maritime picture resulting from the signing of the agreement remains complicated but the signing of the agreement was an opportunity seized within a very limited timeframe following lengthy diplomatic negotiations between two "enemy states" under the mediation and facilitation of the United States.

The agreement ultimately determines four maritime coordinates (or points) through which the new Israeli-Lebanese MBL passes. The agreement adopts a very pragmatic and practical approach, which will allow for the future development of the Sidon (Qana) offshore hydrocarbon prospect (a.k.a. "Block 9 Prospect") which straddles the agreed MBL between the two sides.

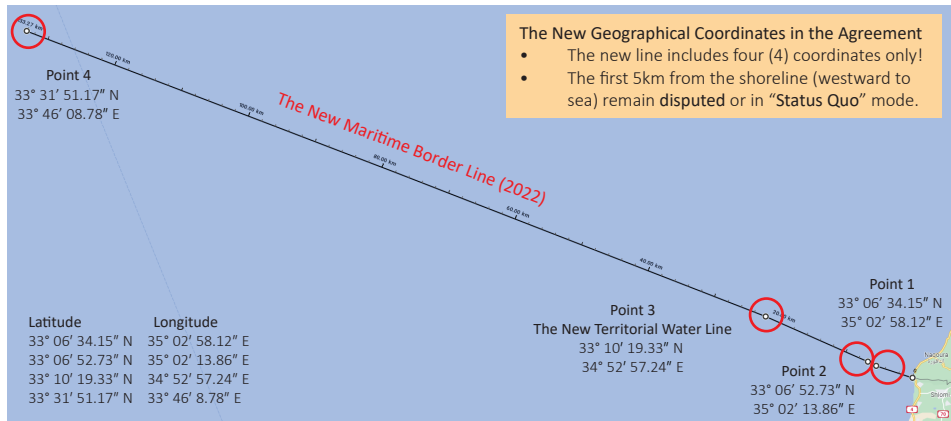


Fig. 1: The MBL between Israel and Lebanon comprising four points (in red circles)

It is the nature of negotiations that each side makes gains but must also make compromises. This article sets out to examine the agreement from an Israeli perspective as it pertained at the time of writing (November 2022) and looking ahead; it does not purport to examine the conduct of the negotiations over the years.

First, we shall review in general terms the main events during the years of negotiations leading to the agreement; then, we shall analyze the terms of the agreement with an eye on territory and resources, and we shall note the achievements and challenges as we understand them. Finally, we shall present several forward-looking conclusions arising out of the agreement, which the State of Israel would do well to explore.

Before developing the matters at hand, we recall that in the year 2019, the Maritime Policy & Strategy Research Center at the University of Haifa ("HMS") published a monograph titled *By Peaceful Means – An Examination of the Conflict over the Maritime Boundary between Israel and Lebanon from the Perspective of Maritime Law*.¹ Now that the agreement has been signed, we believe that it delivers clear achievements to both sides in terms of regional and energy security and that it will contribute greatly to the stability of the regional maritime domain.

Historical Background: A Chronology of Negotiations

Israel and Lebanon do not have a peace treaty between them and have never agreed on an international border, either on land or at sea.² Over the years, the two states have commonly referred to the British-French land border line from 1923 as their land boundary ("LBL"). The aforementioned British-French LBL was negotiated between Britain (which controlled Palestine at that time) and France (which controlled Syria and Lebanon at that time) and was intended to represent the LBL on which the ultimate international border between Israel and Lebanon would be based when the time came.³

¹ Benny Spanier, *By Peaceful Means – An Examination of the Conflict over the Maritime Boundary between Israel and Lebanon from the Perspective of Maritime Law* (Haifa: Maritime Policy & Strategy Research Center, University of Haifa, 2019) [Hebrew].

² Haim Srebro, *Israel's Borders Today* (Tel Aviv: Survey of Israel, 2012), 72 [Hebrew]; Amos Harel, "[Thirteen Israeli Border Points Raising Tensions with Lebanon](#)," *Haaretz*, February 27, 2018.

³ Gideon Biger, "Geographical and Political Issues in the Process of Determining the Northern Border of Eretz-Israel during the Mandate Period," in Avshalom Shmuely, Arnon Sofer and Nurit Kliot (eds.), *Land of the Galilee* (Haifa: The Society for Applied Research, University of Haifa, 1983), 427 [Hebrew]. The demarcation of the northern border of the Land of Israel began with the separation of the areas that would be overseen by France and Britain, respectively, according to the 1916 Sykes-Picot Agreement. The demarcation process continued with negotiations, which concluded in December 1920. Specific agreements were subsequently reached to ease local conditions in 1923–1928. Giora Eiland, *No Sleep at Night: A Biography* (Rishon LeZion: Yediote Books, 2018), p. 230 [Hebrew]. Moshe Brawer, *The Northern Border of Eretz-Israel and its Demarcation during the Mandate Era* (Haifa: [no publisher], 1970), pp. 3–6 [Hebrew].

Reliance on the British-French LBL was also the case in each of (a) the 1949 Armistice Agreements,⁴ (b) the Mixed Armistice Commission activities (MAC), (c) the May 17, 1982 Agreement between Israel and Lebanon, and (d) the discussions with the United Nations ahead of the demarcation of the "Blue Line" in the year 2000 pursuant to the Israel Defense Forces ("IDF") withdrawal from the self-declared security zone in southern Lebanon.⁵ The current LBL was drawn in the year 2000 by the United Nations for the purpose of the IDF withdrawal, whereby the United Nations cartographical officials based the line on the Mandate-era British-French LBL from 1923.⁶ Since Israel, Lebanon, the United Nations, and the international community have all given their agreement in principle to the route of the current Israel-Lebanon LBL, we may see this as a positive basis for an agreed land border line when peace is finally made between the sides, with minor adjustments to be agreed between the parties.

To date, there remain only thirteen points of contention between Israel and Lebanon on their LBL, the most relevant of which for the purpose of the MBL and the maritime delimitation agreement is the location of the westernmost point located on the coast at the Rosh Hanikra location,⁷ which incidentally is also the starting point for the MBL, westward into the sea. This land point at Rosh Hanikra was not agreed upon as part of the Mandate-era British-French LBL and has never been agreed between the parties.⁸

When the IDF withdrew its forces from the Security Zone in southern Lebanon in the year 2000, it had to determine for itself a suitable MBL for the purpose of preventing hostile activity from the sea against Israel, and in order to mark a "no-go-area" for Lebanese fishermen along their southern MBL. During this process, the MBL marking

⁴ [Israeli-Lebanese General Armistice Agreement](#), signed on March 23, 1949.

⁵ Srebro, *Israel's Borders Today* [Hebrew].

⁶ Ibid, p. 71. For more see: Chilik Horowitz and Yisrael Loger, [Department of Mandate Measurements and Borders of Eretz-Israel](#), Survey of Israel Center, on the Survey of Israel website [Hebrew]

⁷ Harel, "Thirteen Israeli Border Points Raising Tensions with Lebanon."

⁸ Brawer, *The Northern Border of Eretz-Israel and its Demarcation during the Mandate Era*, p. 7 [Hebrew]. The British representatives were able in the negotiations to shift the border northward and position it at the southern opening of the Ladder of Tyre. Had the border commission remained faithful to the instructions in the agreement from 1920, the border would have hit the sea at least 1km south of its present location. Biger, "Geographical and Political Issues in the Process of Determining the Northern Border of Eretz-Israel during the Mandate Period," p. 440 [Hebrew]. The Rosh Hanikra area was not considered significant at the time. In the negotiations between the sides, the emphasis was placed on geographic and settlement considerations, most importantly farmland, water sources, grazing lands, roads, agricultural development, etc. For this reason, the point was moved and was not precisely demarcated. Srebro, *Israel's Borders Today*, p. 71 [Hebrew].

Israel's territorial waters was also defined, solely for security needs provided for by the Israeli Navy; this was referred to as the buoy line (since it was marked with buoys).

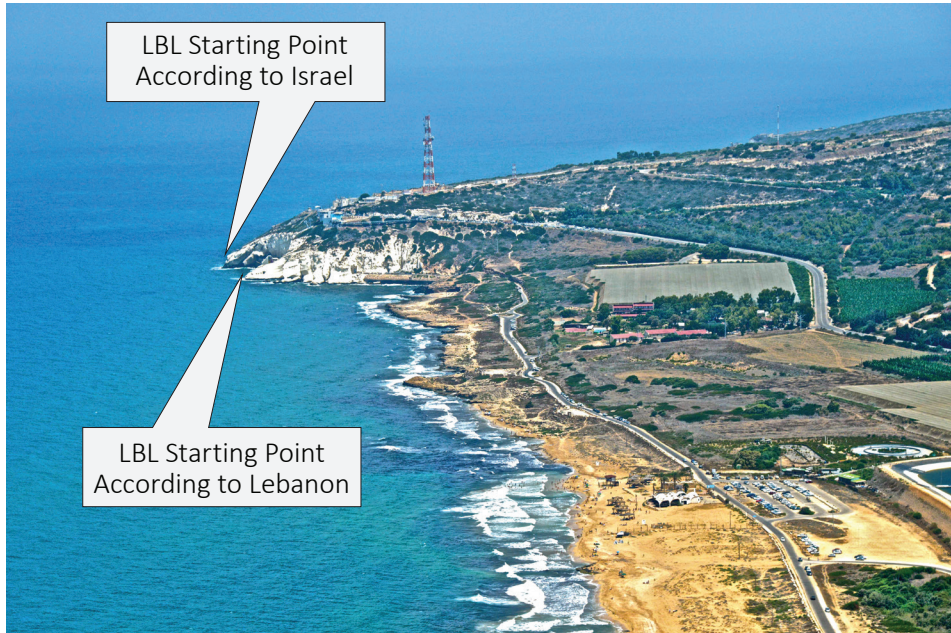


Fig. 2: The present dispute over the starting point of the MBL⁹

In time, and with the discovery of Israel's offshore gas reserves in the Mediterranean Sea during the first decade of the 2000s, the MBL was extended slightly to carve out Israel's exclusive economic zone ("EEZ"). It bears noting that from Israel's perspective, the considerations for defining the Israel-Lebanon MBL were primarily reactive and in response to evolving events, namely the IDF's withdrawal from Lebanon and the need to defend Israel's offshore gas reserves. The State of Israel did not engage in any long-term strategic or geopolitical thinking about the many implications of the MBL at the time.¹⁰

In order to establish its EEZ, Israel chose to initially rely on two existing bilateral maritime agreements which were previously signed between Cyprus and its neighbors. (These agreements were signed before Israel signed its own maritime agreement with Cyprus.) Cyprus signed these aforementioned agreements with Egypt and Lebanon respectively, but they also had the effect of defining Israel's EEZ in themselves.

⁹ Image: Yigal Dekel, 2013. *Spanier, By Peaceful Means* [Hebrew].

¹⁰ [Protocol 127 of the Knesset Foreign Affairs and Defense Committee](#), October 19, 2022, 3 [Hebrew].

The first agreement, namely between Cyprus and Egypt, defined their mutual MBL and respective EEZs and was signed on February 17, 2003. It entered into effect on March 7, 2004.¹¹

Thereafter, the second agreement, a separate Cypriot-Lebanese maritime agreement, was signed in January 2007; in it, Cyprus and Lebanon agreed on their mutual MBL and their respective EEZs. This Cypriot-Lebanese maritime agreement was ratified by Cyprus, but not by Lebanon – and has therefore not been deposited with the United Nations.¹²

On December 20, 2010, Israel and Cyprus finally signed a maritime agreement delimiting their MBL and defining their respective EEZs.¹³ The preamble to the Israel-Cyprus agreement states that they have delimited their exclusive economic zones in pursuance with the United Nations Convention on the Law of the Sea (UNCLOS).¹⁴

On its western flank, the Israel-Cyprus MBL follows the median line principle between Israel and Cyprus (fig. 3).¹⁵ On its northern flank, the area is delimited by point 1, which is the southernmost point in the unratified Cypriot-Lebanese maritime agreement and is also the northernmost point in the Israeli-Cypriot agreement.¹⁶

The latter Israeli-Cypriot agreement contains a reservation stating that point 1 is non-binding and open to future negotiations between the states.¹⁷ Moreover, paragraph 3 in

¹¹ [Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the delimitation of the Exclusive Economic Zone](#), signed in Nicosia on 17 December 2010 (entry into force: 25 February 2011). Available on the U.N. website. Haim Srebro, "The Border of Money," *Ma'arachot* 461 (2015), 8. On the requirement to deposit a ratified treaty with the United Nations, see: United Nations Convention on the Law of the Sea of 10 December 1982, 1833 U.N.T.S.3. Para. 75(2): "The coastal State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations."

¹² Haim Srebro, "The delimitation of the Exclusive Economic Zone (EEZ) between Israel and Cyprus," *Horizons in Geography* 88 (2016), pp. 47-48 [Hebrew].

¹³ Israel-Cyprus agreement.

¹⁴ *Ibid*, preamble.

¹⁵ *Ibid*, 1(c); UNCLOS 74(1): "The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution."

¹⁶ Nadia Tzimerman, "The Dispute over the Israel-Lebanon Maritime Border—Legal Perspectives" in Shaul Chorev and Ehud Gonen (eds.), *Maritime Strategic Evaluation for Israel 2017/18* (Haifa: Maritime Policy & Strategy Research Center, University of Haifa, 2018), pp. 139-146; Srebro, *Israel's Borders Today*, 68 [Hebrew].

¹⁷ Srebro, "The Border of Money," p. 10 [Hebrew].

the Israeli-Cypriot agreement states that if either state (Israel or Cyprus) should decide to conduct negotiations with a third-state about that third-state's EEZ (such as Lebanon, for example), it would have to consult the other state before reaching an agreement and check whether it was delimited with reference to points 1 and 12.

As early as July 9, 2010, and October 11, 2010, before the signing of the Israel-Cyprus agreement, Lebanon deposited a statement with the United Nations Secretariat listing the maritime border coordinates of the southern MBL of its EEZ in accordance with paragraph 75(2) of UNCLOS, which requires states to publicize this information through the United Nations.¹⁸ The Lebanese MBL extended from point 18, adjacent to Lebanon's coastline, to point 23 located in the middle of the eastern Mediterranean Sea, thus creating the line referred to as line 23.

Later, on June 20, 2011, Lebanon once again deposited letters with the U.N. Secretariat stipulating that the Israeli-Lebanese MBL passes between point B1 on the Rosh Hanikra coastal shore and point 23, which in its view was the midpoint equidistant between the three countries (i.e., Israel, Cyprus and Lebanon).¹⁹ Point 23 lies ten miles southwest of point 1 (fig. 4). In its letters to the United Nations, Lebanon clarified that point 1 was valid only in relation to the agreement demarcating the boundary between the Lebanese and Cypriot EEZs and did not constitute an MBL between Israel and Lebanon.²⁰ In the letter, Lebanon objected to the manner in which Israel and Cyprus had made use of point 1, which is identical to the southwestern tip in its agreement with Cyprus, for the purpose of delimiting an MBL between Israel and Lebanon.

¹⁸ Deposit by Lebanon of Charts and List of Geographical Coordinates of Points Pursuant to Article 75, Paragraph 2 of the Convention. Available on the [UN depository of submitted documents by Lebanon](#). Note that we are not speaking about the depositing of the agreement with Cyprus, only a unilateral definition of Lebanon's southern border.

¹⁹ *Ibid.*, letter dated June 20, 2011, recalling that Lebanon already deposited its boundary line in 2010: "I write to you with regard to the exclusive economic zone of Lebanon. On 9 July 2010 and 11 October 2010, Lebanon deposited with the United Nations the geographical coordinates of, respectively, the southern and southwestern maritime borders of that zone. The southern maritime border extends from point B1 on the shore at Ra's Naqurah, the first point on the 1949 Israeli-Lebanese General Armistice Agreement table of coordinates, to point 23, that is equidistant between the three countries concerned, and on the coordinates of which all must agree. The geographical coordinates of point 23 are latitude 33°31' 51.17", longitude 33°46' 08.78". Point 1 does not therefore represent the southern end of the median between the Lebanese Republic and the Republic of Cyprus that separates the exclusive economic zones of each country, and can only be viewed as a point that is shared by Lebanon and Cyprus. It is not a terminal point and therefore may not be taken as a starting point between Cyprus and any other country, particularly given the fact that it is just one point like any of the others on this line."

²⁰ *Ibid.*

On July 12, 2011, the Israeli Mission to the United Nations sent the U.N. Secretariat a list of six maritime coordinates delimiting Israel's northern MBL as determined by the Government of Israel by the applicable government decision made on July 6, 2011.

Point 1 on the Israeli MBL is the point that appears in the agreement between Israel and Cyprus on the delimitation of their mutual EEZs, and which is the same as point 1 in the maritime agreement between Lebanon and Cyprus.²¹

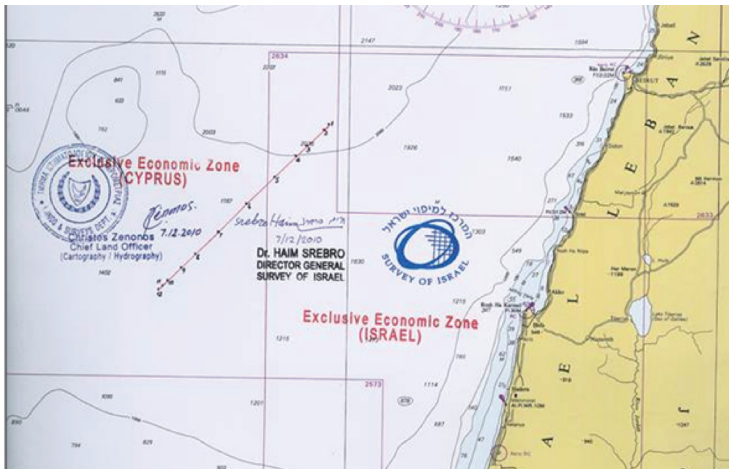


Fig. 3: Map delimitating the Israeli and Cypriot MBL and EEZs, with twelve points²²

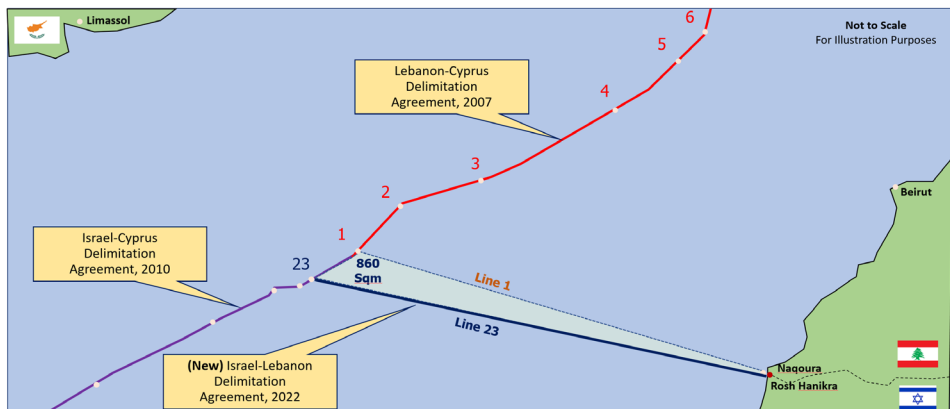


Fig. 4: Map of the disputed triangle between Israel (Line 1) and Lebanon (Line 23)

²¹ [List of Geographical Coordinates for the Northern Limit of the Territorial and Exclusive Economic Zone of the State of Israel.](#)

²² Source: Annex 2 of the Israeli-Cypriot agreement

In early 2011, Lebanon asked the U.K. Hydrographic Office (UKHO) to conduct research on its behalf and to produce recommendations about the correct MBL on the southern border with Israel. On August 17, 2011, the UKHO submitted its work to Lebanon and among its observations was that point 23 was based on a hydrographic and legal error; it recommended two alternative lines, one of which leads to point 29, south of 23.

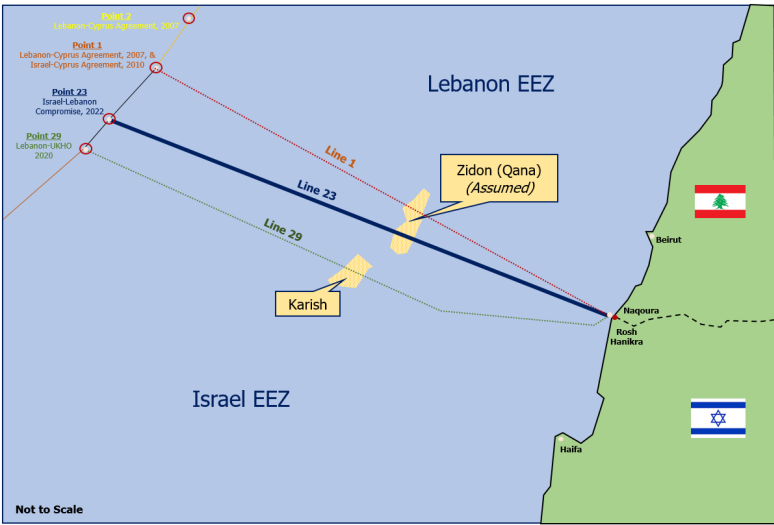


Fig. 5: Map of line 29 with reference to lines 1 and 23 (including the expected location of the Karish and Sidon/Qana fields)

In Lebanon’s response to Israel’s unilateral declaration of its northern MBL (i.e. Line 1), the route of which is located at northernmost part of Israel’s EEZ, Lebanon chose not to submit as a countermeasure the UKHO’s position to the United Nations; and as such, on September 3, 2011, Lebanon eventually chose to submit to the United Nations the coordinates of line 23 as its official position on the matter of the Israel-Lebanon MBL.²³ Officially, the Government of Lebanon has never actually presented to the United Nations an official position in reliance on the UKHO’s proposal for line 29, but neither had Lebanon ever forgone this option—that is, of course, until the signing of the current delimitation agreement between Israel and Lebanon. As such, ultimately, Lebanon’s submission of line 23 to the United Nations created a disputed triangle between line 1 and line 23, encompassing 860 km² (332 square miles) at sea (see fig. 6), over which the parties were required to negotiate.

²³ Letter dated September 3, which stated, *inter alia*: "I am writing to you with regard to the claims deposited on 12 July 2011 by the Israeli mission concerning the geographical coordinates of the northern part of the territorial waters and exclusive economic zone that it alleges belong to Israel."

At this stage, in 2011, the United States took a mediation and facilitation role in the conflict at Israel's request, and with Lebanon's consent. In 2012, U.S. special envoy Frederic Hof proposed dividing the triangular area of dispute, and at the end of this round of discussions, the sides had almost reached certain agreements that would divide the triangular area such that Lebanon would receive 56 percent of it and Israel would receive the rest. It was also decided at that point in time to begin the MBL from a point three miles out at sea and not from the coastline in order not to touch the point of contention on the shore at Rosh Hanikra. Regrettably, these talks did not bear fruit and the special envoy was subsequently replaced, to no avail.²⁴

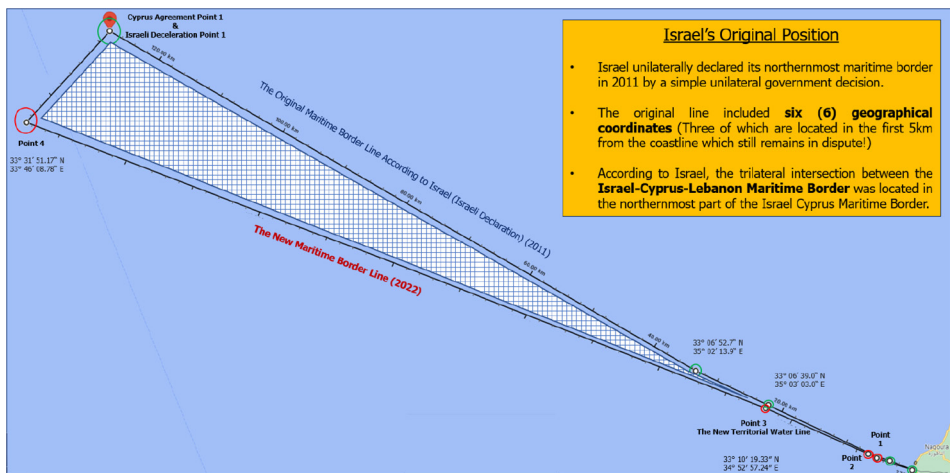


Fig. 6: The disputed triangle—860 km² (332 square miles); line 1 vs. line 23

In October 2020, five meetings were held between Israeli and Lebanese teams at the United Nations base at Naqoura. In the framework of these indirect talks, which were again mediated and facilitated by the United States and the United Nations, an attempt was made to reach an agreement in the dispute over the location of the MBL between the two states. These negotiations failed once again and were not subsequently resumed. It appears that during this round of talks, the Lebanese delegation first presented to the sides the principles of line 29 and claimed that line 23 was actually incorrect—all in reliance on the UKHO's recommendations to the Government of Lebanon.²⁵

²⁴ Frederic C. Hof, "[Maritime Mediation Between Lebanon and Israel](#)," *New Lines Magazine*, December 4, 2020.

²⁵ Benny Spanier, *Changes in Lebanon's Position in the Maritime Boundary Conflict with Israel in October 2020—A Critical Examination* (Haifa: Maritime Policy & Strategy Research Center, University of Haifa, 2021), pp. 2, 7–8 [Hebrew].

On August 10, 2021, U.S. Secretary of State Antony Blinken announced the appointment of Amos Hochstein as the new U.S. special envoy and coordinator for international energy affairs. It was decided that he would address the MBL conflict between Israel and Lebanon. He immediately launched his mediation and facilitation efforts, and from media reports, it appears that this time, the intention was to address the issues of territory and resources together as one.

Due to severe time constraints dictated by the end of the Lebanese president's tenure in October 2022 and the upcoming elections in Israel, which would be held on November 1, 2022, the negotiations became especially intensive. Indeed, on October 12, 2022, the Government of Israel ultimately approved the delimitation agreement between Israel and Lebanon and submitted the agreement to the Knesset for review until its ratification by the Government on October 27, 2022. In the meanwhile, the Israeli Supreme Court rejected several petitions against the nature of the approval process carried out by the Government of Israel.

On October 19, 2022, the Foreign Affairs and Defense Committee at the Knesset held a deliberation about the delimitation agreement between Israel and Lebanon during the time that the agreement was submitted by the Government for the Knesset's review. We note that at this deliberation, the Israeli national security advisor, the director-general of the Ministry of Foreign Affairs, and the director-general of the Ministry of Energy each explained the principles of the agreement to the committee and described the manner in which it was achieved and its implications. Their remarks at that meeting shed light on the negotiation process and the achievements, as they saw them at the time.²⁶

The national security advisor noted the instructions that the Government had given the negotiation team during the process, namely: (a) to fully safeguard the State of Israel's security interests by delimitating an agreed international MBL; (b) to create a strategic equilibrium based on the principle of "Platform vs. Platform" (i.e. a balance of interests whereby Israel could position offshore infrastructure on its side of the MBL, and Lebanon could do the same on its side, such that there remained a symmetry of security interests, which could act to deter attacks on this infrastructure by either side, in a way that would prevent any deterioration into an unwanted escalation or a reality of routine frictions); and (c) to guarantee the security of Israel's national energy infrastructure and the continuity of its energy supply. In other words, there was to be no interference with gas extraction from the Karish gas field located in the vicinity of the Block 9 Prospect, which straddles the Israeli-Lebanon MBL.²⁷ The director-general of the Ministry of Foreign Affairs also

²⁶ Protocol 127 of the Knesset Foreign Affairs and Defense Committee, 3–17 [Hebrew].

²⁷ Protocol 127 of the Knesset Foreign Affairs and Defense Committee, 7, 36 [Hebrew].

noted the importance of the establishment of an agreed international maritime border line with an enemy state.²⁸

Achievements and Challenges in the Agreement – The Israeli Perspective

Delimitation of an MBL between Israel and Lebanon

The agreement comprises four sections and four annexes. The first section of the agreement delaminates the MBL by identifying four maritime coordinates (or points), each of which was formally submitted to the United States and the U.N. Secretary General by both sides.

The agreement detaches the question of the MBL from that of the starting point of the LBL at Rosh Hanikra for the purpose of the agreement alone without any prejudice to the sides' legal claims on this matter.

The route of the Israeli-Lebanese MBL is based on two elements: (a) the route of the "buoy line" (i.e., the line drawn from the land point at Rosh Hanikra to the first coordinate of the MBL, westward (see fig. 7), and (b) the route of the MBL, marked by four maritime coordinates (points), which begins at the end of the buoy line and extends all the way to point 23 at the western flank of each side's EEZs (see figs. 1, 5, and 6).²⁹

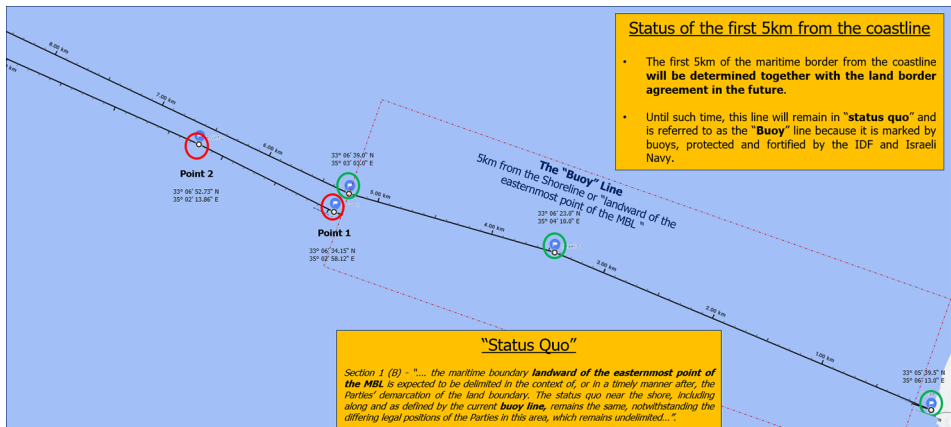


Fig. 7: Map of the "Buoy Line"

²⁸ Protocol 127 of the Knesset Foreign Affairs and Defense Committee, 46 [Hebrew].

²⁹ Israeli-Lebanese delimitation agreement, Section 1(1–4).

Achievements

The MBL serves Israel's security interests as defined by the Government of Israel and other state authorities including the National Security Council, the Israel Defense Forces, and the Israeli Navy. This is the first time that Israel has signed a MBL agreement with an enemy state, despite this not being a peace treaty between the sides. The agreement stipulates that the MBL establishes "a permanent and equitable resolution of their maritime dispute."³⁰ The maritime coordinate points of the MBL have been deposited with the United Nations and secure international validity for the agreement.

The MBL effectively terminates Lebanon's claims to any maritime territory or resources in Israel's EEZ and as such, also waives its claim to point 29 as made according to the UKHO recommendations.

Challenges

The MBL leaves untouched the dispute with Lebanon about the buoy line, stating that "the Parties agree that the status quo near the shore, including along and as defined by the current buoy line, remains the same, notwithstanding the differing legal positions of the Parties in this area, which remains undelimited." This issue must still be determined in the future by agreement of both sides concerning the starting point of the LBL from the shore starting at Rosh Hanikra. Not only that, but the agreement stipulates that the maritime coordinates (points) deposited with the United Nations supersede any of the sides' previously deposited coordinates with the United Nations for the purpose of their MBLs. However, on the issue of the buoy line, the Lebanese insisted on not rescinding their position about maritime points 18 and 19 (located near the shore), which had been deposited with the United Nations along with all the other points that they maintain serve as their starting point of the MBL.³¹ In other words, at least with regard to the buoy line, the agreement does not end the conflict. The starting point of the MBL will become a point of contention if and when a permanent LBL is negotiated between the parties in the future, casting doubt on the continuation of negotiations – and perhaps even causing a deterioration of the situation around the route of the LBL. This would contravene the objectives that Israel set itself for this agreement.

³⁰ Ibid, para. 1(5): "The Parties agree that this Agreement, including as described in Section 1(B), establishes a permanent and equitable resolution of their maritime dispute."

³¹ Protocol 127 of the Knesset Foreign Affairs and Defense Committee, 10 [Hebrew].

Developing the Block 9 Prospect (a.k.a. the Sidon or Qana field)

The second section of the agreement addresses the location of the cross-border gas and petroleum field known as Block 9 which straddles the MBL. The agreement formalizes the principles for the development of the Block 9 Prospect. The agreement provides for separate commercial agreements to be signed in the future, which will ultimately determine, *inter alia*, the identity of the developing entities that will be granted the rights to develop the Block 9 Prospect and what mechanisms will govern its commercial cooperation.

Achievements

The agreement specifically addresses the potential for energy extraction from the Block 9 Prospect, about which there is already plentiful technical information from previous maritime surveys carried out in the area. The existing information about the Block 9 Prospect suggests that most of the gas in the field is probably on the Lebanese side of the new MBL, and only a smaller portion lies on the Israeli side. The agreement contains a joint declaration that the sides "understand that there is a hydrocarbon prospect of currently unknown commercial viability that exists at least partially in the area," which appears to straddle the MBL. There are no precise numbers that can be used as points of reference in the agreement on this matter, or any other benchmarks to rely on. The agreement does not stipulate the division of rights and obligations in relation to the development of Block 9 Prospect and the gas field that straddles the MBL between Israel and Lebanon, and the agreement contains no commitment by the Government of Lebanon to cooperate directly with Israel.

Nevertheless, the agreement clearly states that Israel is entitled to a share of the economic rights in the Block 9 Prospect, inasmuch as it lies beyond the MBL – a matter that had not been accepted by the Lebanese until the signing of the agreement. Although the media seems to have settled on the claim that this constitutes approximately 17 percent of the total area of the cross-border gas field, the actual size of the gas field in the Block 9 Prospect and any economic right entitlements attached thereto will only be determined after future exploratory studies and the conclusion of an agreement to develop the field with the operator of the Block 9 Prospect.

Agreeing on the "rules of the game" with respect to developing the Block 9 Prospect is a clear achievement for both sides. Although Lebanon has a clear interest in developing the Block 9 Prospect as quickly as possible, experience has shown that this sort of agreement can be difficult to obtain. Israel and Cyprus, for example, have not yet managed to reach an agreement, after ten years of negotiations, about the division of economic rights for

the Aphrodite gas field, which also straddles their MBL, so arrangements for the division of entitlements from the gas field in the present agreement is a positive step forward, which will prove to be critical in the race to develop the Block 9 Prospect in the future.

Another significant achievement for Israel in connection with the development of the Block 9 Prospect is that the agreement explicitly defines the commercial profile of the international corporations that will be entitled to lead this development; specifically, among other things, the partners involved may not be subject to international sanctions. It bears noting that recently, the Russian oil and gas firm Novatek returned to the Government of Lebanon all of its holdings in Block 9, representing 20 percent of the rights thereto, and has quit the project. At the time of writing this report, it had not yet been decided, who will permanently enter the project in their place.

The creation of a framework that enables Israel to realize its economic rights in this potential gas field represents an achievement for Israel. The agreement stipulates that "Israel will be remunerated by the Block 9 Operator for its rights to any potential deposits in the Prospect and to that end, Israel and the Block 9 Operator will sign a financial agreement prior to the Block 9 Operator's Final Investment Decision" ("FID"). The negotiations on this matter will be held directly between Israel and the Block 9 Operator who will ultimately be responsible for transferring to Israel any compensation to which Israel will be entitled for its economic rights to the gas field.

Importantly, Lebanon insisted that it would not be a party to any agreement with Israel on this matter and that the entire Block 9 Prospect would be "developed by Lebanon's Block 9 Operator exclusively for Lebanon", consistent with the terms of this Agreement, and in a manner that shall not affect Lebanon's agreement with the Block 9 Operator, and the full share of its economic rights in the Prospect".³² On the Israeli side, the Block 9 Prospect economic rights will most likely be managed by the Government of Israel on its own or by means of a license or lease granted to a third party.

Challenges

The agreement between Israel and the Block 9 Operator will be a commercial agreement which will reflect the understandings between the two states. At present, there are still several information gaps between the various parties about the technical details of the Block 9 Prospect, which may seriously impede the formation of a binding economic agreement in the future.

³² Israeli-Lebanese maritime agreement, section 2(5).

Moreover, a legal regime asymmetry has now emerged in light of the MBL. Thus, for example, whereas the taxation regime governing the profits from the Block 9 Prospect on the Israeli side is already known and set in place after years of commercial experience with royalties from natural resources, Lebanon is still in the very early stages of developing a gas sector and there are questions around the tax regime to which the gas field will be subjected on its side. If the Government of Lebanon decides in the future to impose upon the Block 9 Operator especially high taxes on profits attributed to the gas field with the intent of maximizing its own revenue streams, then it may jeopardize the entire agreement. In other words, even though Israel and Lebanon are not directly linked through this gas field contractually, each state's conduct with respect to the Block 9 Operator will affect the manner in which the prospect will be developed and operated.

Another challenge concerns the level of compensation and royalties that Israel will actually receive in practice. Although the agreement makes clear the geographic area that falls under Israel's jurisdiction, after a final, three-dimensional mapping of the Block 9 Prospect and additional drilling activities, Israel's entitlements could grow or shrink substantially, depending on the findings. For example, it may turn out that the relative share of the Block 9 Prospect on the Israeli side contains more than previously thought, and Israel's demands for compensation will grow accordingly. Such calculations will likely stoke disagreement and tensions between the two sides in the future.

The agreement states that the development of the Block 9 Prospect will be solely for the benefit of Lebanon. This means that Israel will not be entitled to receive gas or petroleum extracted from the Block 9 Prospect for its own use. The agreement commits Israel to not develop its side of the Block 9 Prospect independently, freeing up the operatorship of the project to the Block 9 Operator. Israel has also committed not to object to reasonable and necessary activities, such as navigational maneuvers, that the Block 9 Operator may wish to conduct immediately south of the MBL in pursuit of the Block 9 Operator's exploration and exploitation of the prospect, so long as such activities occur with prior notification by the Block 9 Operator to Israel, and Israel has pledged not to unreasonably impede the development of the prospect.

The agreement contains no reference to the question of whether Lebanon could export surpluses of hydrocarbons to neighboring states and how it might do so. The agreement does not stipulate exactly what hydrocarbons will be produced from the Block 9 Prospect (such as oil, natural gas, condensate, hydrogen, LNG, methanol, ammonia, etc.). These are parameters that will affect the field's profitability and will be determined in agreements with the operator.

Development of Future Hydrocarbon Prospects across the MBL (other than the Block 9 Prospect)

The third section of the agreement establishes both sides' consent to call on the assistance of the United States once again if disagreements arise between them concerning the development of additional resources along the MBL.

As it stands, there is no concrete information about the existence of any additional hydrocarbon reserves along the new MBL between Israel and Lebanon. During the negotiations, both sides were wary of making tangible concessions, in case new cross-border reserves along the MBL were discovered in the future. Therefore, the agreement does not settle the question of the future development of additional prospects. The agreement states that "each Party shall share data on all currently known, and any later identified, cross-MBL resources with the United States, including expecting the relevant operators that operate on either side of the MBL to share such data with the United States" and will conduct a dialogue with the United States about such issues. If new discoveries are made in the future along the MBL, the sides will present the issue to the United States, which will offer assistance in a manner acceptable to both parties at the time. Moreover, both sides have effectively forgone claims to any resources that might yet be discovered on each other's side of the MBL.

The agreement incorporates a declaration by the United States, committing to "exert its best efforts and endeavors in order to facilitate Lebanon's immediate, swift and continuous petroleum activities".

The United States' Continuing Role as a Mediator and Facilitator in the Future

The fourth section of the agreement states that if differences arise between the parties concerning the agreement, the parties will turn to the United States to try to reach an agreement. Similarly, the text stipulates that the agreement will come into force once the United States sends a notice that both parties have accepted, in writing, the terms of the agreement as laid out in the annexes. For Israel, it is important that the United States act as the mediator and facilitator in relation to this agreement. There is a concern that Lebanon would otherwise appeal to international institutions to resolve any disputes, which would not necessarily serve Israeli interests.

Summary and Future-Looking Conclusions

The 2022 Delimitation Agreement Between Israel and Lebanon is extremely important, in every possible sense. The general elections in Israel, during which the agreement was presented to the public, impeded any serious and in-depth discussion on the matter in Israel. Now, however, we may look ahead and consider how it would be proper to address the challenges that the agreement poses.

Israel must devise a policy and strategy concerning its maritime domain. It must recognize the sea as a national asset and regulate it, taking a broad and long-term perspective. First and foremost, it must complete the legislative process to pass the 2017 Marine Areas Bill through which Israel would, among other things, define in its laws the process for determining its maritime borders. Israel must determine the point on land that will serve as the starting point for its MBL with Lebanon, which will affect its starting position in any future negotiations. Israel must also deposit the economic aspects of the agreement to parliamentary and ministerial oversight and examine whether it is appropriately realizing its rights to the Block 9 Prospect. This is a complex issue that will require professional knowledge, which must be sustained over time.

Israel must also consider the positioning of future offshore infrastructure in its EEZ. The location of the Floating Production Storage and Offloading facility ("FPSO") for the Karish field was used as a pawn by both sides in their attempts to reach an agreement over the MBL.

Israel must formulate a policy for positing future offshore infrastructure in its EEZ after careful consideration of all relevant factors. Israel must make it clear that since it is ultimately responsible for, and will also fund, the defense of Israeli offshore infrastructure in its EEZ, Israel must also decide the location of future offshore infrastructure as well; offshore operators must take this into account when developing their field development plans (or FDPs).

It will not be long before pressure mounts on Israel to assist the development of the Gaza Marine gas field and other prospects located off the coast of the Gaza Strip owing to the deleterious economic situation there.³³ The resolution of the Lebanese maritime matter may serve as inspiration and precedent in any attempt to resolve the maritime conflict around Gaza. Israel should consider its position on the Palestinian Authority's declaration

³³ Orin Shefler, "UNCLOS, Delimitation of Maritime Boundaries and Offshore Infrastructure as a means for Regional Cooperation and Reconstruction of the Gaza Strip," in Shaul Chorev and Ziv Rubinovitz (eds.), *Maritime Strategic Evaluation for Israel 2021/22* (Haifa: Maritime Policy & Strategy Research Center, University of Haifa, 2018), pp. 311–332.

of an EEZ off the coast of Gaza (although Israel has already expressed its official and obligatory opposition on this matter).³⁴ Likewise, Israel must examine the possibility of future offshore developments near Gaza, even while Hamas maintains controls the Gaza Strip, perhaps with the assistance of Turkey, with which Israel has recently warmed its relations on energy matters.

The Delimitation Agreement between Israel and Lebanon is a hopeful sign and points to the latent possibilities of the maritime domain. The agreement heralds a new era in relations between Israel and Lebanon, even if both sides are trying to lower expectations. But even more importantly, the agreement demonstrates that hostile states can still cooperate in the maritime domain even when on land, they struggle to do so.

One may hope that the agreement with Lebanon will bring economic prosperity and growth to the entire region.

³⁴ ["Israel's deposit of its opposition to the Palestinian Authority's move,"](#) January 14, 2020 [Hebrew].

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