



Lebanese Oil & Gas Initiative
المبادرة اللبنانية للنفط والغاز

Brief Practical Manual On The Right of Access to Information In the Lebanese Oil & Gas Sector

March 2018



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Norwegian People's Aid
Lebanon

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INTRODUCTION

On January 25, 2017¹, the Lebanese Government announced its intention to join the Extractive Industries Transparency Initiative – EITI, making Lebanon second, globally, to Seychelles Islands (they joined in 2014), in announcing its desire to join this initiative before any prospecting and extracting works are undertaken. Early in 2017, the commission of Public Works, Transportation, Power and Water in the Lebanese Parliament continued its discussion of a draft law “Strengthening transparency in the oil sector” presented by MP Joseph Maalouf, with the aim of buttressing transparency along the whole value chain, and lay the general rules that support transparency in this sector.

1

<http://www.lpa.gov.lb/ar/news2017.php>

2

<http://resourcegovernanceindex.org/>

3

<https://resourcegovernance.org/>

4

<http://www.logi-lebanon.org/KeyIssue/Transparency-Accountability-in-Lebanon-Petroleum-Legislation>

5

http://www.transparency-lebanon.org/Modules/PressRoom/News/UploadFile/4811_Ar_20,01,YYAti-law.pdf

In light of these efforts made by State institutions, the problem of transforming subterranean resources into economic growth on the one hand, and to sustainable development on the other, remains deep-rooted in the Lebanese citizens’ minds. Experience has proven often times that one of the fundamentals of turning this sector from a potential curse into a long sought bliss does not depend exclusively on adopting good economic policies on the part of the State, but also on the right of all citizens to access relevant information. According to the “Resource Governance Index”² issued by the Natural Resources Governance Institute³, states having an environment favorable to accountability and transparency and the rule of law usually enjoy a more effective governance of natural resources, contrary to other countries lacking in the exercise of these practices.

The report issued by Lebanese Oil and Gas Initiative in September 2017⁴ has shown that the Lebanese legal framework applied to petroleum related activities is mostly in line with good international practices. However, given the poor governance affecting Lebanon, it will be hard to monitor the proper implementation of these laws, hence the importance of an effective implementation of the right to access information law.

The aim of this practical manual is to provide in condensed form the gist of the law recognizing this right approved by the Parliament on February 10, 2017⁵, and the way to lawfully access those information from the Lebanese Petroleum Administration, or from other authorities related to this sector.



THE RIGHT TO ACCESS INFORMATION LAW

This law specifies the information that must be publicized and/or disclosed and bolsters the principles of transparency and accountability in State agencies, and builds on two mandatory duties that the State ought to abide by, these are:

A – Instructing State agencies to mandatorily publish on their websites specific information pertaining to their activities.

Main State institutions covered by the law:

- The State itself and its agencies,
- State agencies, Public Utility Institutions, autonomous administrative bodies,
- Municipalities and Unions of Municipalities,
- Courts of Justice and the councils of judicial or arbitral character, including judicial and financial courts,
- The governing bodies of sectors, especially the Lebanese Petroleum Administration, and the Sovereign Wealth Fund...

The information that is mandatorily published

- Decisions made by the Administration (complete)
- The annual budget and the statement of income and expenditure of the previous fiscal year (complete)
- Circulars and memoranda and the organizational views and those that include an interpretation of laws
- The details of the operations through which public funds are spent (tenders and contracts...)

Locations of the dissemination of information

- On the official website and/or through an electronic application.

B – The State agencies' obligation to respond to any request made by a natural or moral person to access information

The information allowed to be accessed

- Decisions, circulars, memoranda, views issued by the agency.
- Reports, researches, minutes, statistics.
- Contracts made by the agency.
- Archived documents.

How to access information

1. Submitting a written request to the officer in charge of providing information.
2. The office must immediately give a receipt of the request.
3. The agency takes fifteen days to provide the requested document.
4. The agency has the right to take another fifteen days to provide the document or reject the request, the time limit may be extended only if:
 - the request contains a large number of information,
 - providing the requested information necessitates consulting another agency or a third party,
5. In case the request is rejected, the applicant has a two-month time limit to appeal the rejection. (in case the request is ignored, the two-month time limit for appeal starts 30 days after the date of submitting the request).

N.B.: since the National Anti-Corruption Committee is not established yet, appeals may be submitted to the Council of State, and the Council has the right to accept or reject the appeal because it is not legally competent to hear it.

Information not allowed to be accessed

- State secrets related to national defense and security, and public security
- The administration of foreign relations of a confidential nature
- Information that is detrimental to State financial and economic interests, and the safety of national currency.
- Private information concerning individuals and issues being dealt with in courts of justice.
- The secret minutes of the Council of Ministers and the House of Representatives.
- Statements issued by the Council of State.

Doubtless, applicants requesting access to information face many different challenges since the issuance of the law on February 2, 2017, such as, for example:

- Most State agencies and authorities did not publish on their websites the documents and statements they are mandated to publish by the law;
- No officer has been assigned to the position of receiving and following up on requests;
- No response has been received to a number of written requests addressed to these authorities allegedly because the anticorruption national authority has not been established yet, or because of the non issuance of implementation decrees, despite the fact that the law enters into force as soon as it is passed and published.

However, some municipalities⁶ have responded to some applicants. It should be noted, here, that the Ministry of Justice has submitted to the office of the Prime Minister an implementation decree proposal for this law in September 2017, but the proposal has not been included yet in the Council of Ministers agenda.

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<https://mutslb.org/>



DOES THE LEBANESE PETROLEUM ADMINISTRATION IMPLEMENT THE RIGHT TO ACCESS INFORMATION LAW?

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<http://www.lpa.gov.lb/ar/regulations.php>

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24/11/2017

According to the official website of the Lebanese Petroleum Administration⁷ the Administration is abiding by the right to access information law, whether in the mandatory publishing of documents allowed by the law, or in responding to requests of accessing the information allowed by the latter.

Until the date of writing this manual⁸ the said Administration has published the financial reports from 2013 to 2016, in addition to contracts signed with international consultants since 2013, and responded to one single request sent to it by The Executive magazine, according to the head of the legal unit in this Administration, Mr. Gaby Daaboul.



WHAT SHOULD BE INCLUDED IN THE REQUEST FOR INFORMATION FROM THE LEBANESE PETROLEUM ADMINISTRATION?

Article 14 of the law stipulates the necessity of submitting the request of accessing information in writing. In addition to the place of residence of the applicant, the request should include adequate details to enable the officer in charge to retrieve the information with minimal effort.

It should be noted here that the law requires, as mentioned above, the applicant to indicate in his request a chosen place of residence. Failure to comply with this legal obligation (which entails a formal defect in the application) may be used as a pretext by the Administration to reject the request.

Upon submitting the request to the Legal Unit in the Lebanese Petroleum Administration, the applicant must receive a notice showing the date of the application, the kind of information requested, and the time needed to respond to it. If the request is rejected, the applicant should receive from the said Administration a written justification for rejecting it. Absence of response within the time limit is considered an implicit rejection.

Note that the applicant can send the application via email at the address specified on the Administration website⁹.

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Idem 7.

In the appendix no 1 you find a proposed model of an application addressed to this Administration.



CONCLUSION

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<http://www.lpa.gov.lb/pdf/OPRL%20-%20Arabic.pdf>

Contrary to what some may think, transparency and the right to access information are not only demands made by civil society worldwide, they also represent an incentive for international companies in this sector, and an opportunity for the State to seize. On the one hand, transparency can afford international companies a certain liberality in dealing with political authorities since it reduces, even if it does not preclude, the risks of corruption in the sector. It will lead these companies to rationalize their expenses, and avoid running the risk of international legal prosecution. On the other hand, transparency provides political authorities with the right framework to showcase a positive example of governance in a subject that matters for all citizens, and positively affect citizens' confidence in them. Hence it is in the interest of all parties to bolster transparency and protect the right to access information.

According to article 4 of the law no132 issued on August 23, 2010¹⁰ (Offshore Petroleum Resources Law), oil resources are owned by the Lebanese State. Hence the Lebanese people are the primary stakeholders in the way this sector is managed, protected, and its expected positive returns are guaranteed. In order to facilitate this task, adopting the right to access information and transparency are two prerequisites for guaranteeing the active participation of citizens and civil society organizations in the governance of this sector, and creating an effective framework to monitor the State's performance, praise it, or criticize it.



APPENDIX NO.1

Proposed sample request form

Beirut 24/11/2017

To: Mr. Gaby Daaboul, Head of Legal Affairs Unit in the Lebanese Petroleum Administration

Subject: Request of access to information

Applicant name: Fadi Al Laqqees

In his capacity as: Chairperson of “Oil for a Better Future Society”

Chosen place of residence: At the Society’ HQ, Bab Idriiss, Such & Such St. So & So Bldg. 1st floor.

Dear Sir,

Pursuant to the provisions of the Law no 28 issued on February 10, 2017 (Right to access information), we hereby ask you to provide us with a copy of the “Contract of technical services related to oil economics” concluded with the consultant Wood Mackenzie in 2016.

Sincerely,

Fadi Al Laqqees

Chairperson of “Oil for a Better Future Society”



ABOUT THE RESEARCHER

Julien Courson is currently a Consultant & Trainer in Capacity Development, Advocacy, Conflict Resolution, and Oil & Gas Governance.

With more than 12 years of experience working as a professional trainer, Julien lead the strategic development of several local and regional capacity development programs. He has consulted, throughout his career with numerous international organizations in areas ranging from human rights and economic justice to conflict-resolution/negotiation and lobbying. Julien's work experience has spanned Lebanon, Tunisia, Libya, Egypt, Syria, Iraq, Jordan and Morocco.

Since 2009, Julien has been contributing to projects related to Governance of Extractive Industries, more specifically Oil & gas in the MENA region. He was in charge from 2012 till 2014 of the Capacity Development program in the MENA region at the "Natural Resource Governance Institute" (previously known as revenue watch institute), a New York based think tank working on the governance of Oil & Gas sectors, and attended the Advanced Global Course "Reversing the Resource Curse: Theory and Practice", School on Public Policy at the Central European University, in Budapest, Hungary in April 2014.

He has been, from 2004 till 2015, a lecturer at the Faculty of Economics of the Saint-Joseph University, and selected by the European Union Delegation in 2010 to participate to the European Union Visiting Program in 2010 in Bruxelles.

Julien holds a Masters in Economic Policy from Saint Joseph University, and a professional certificate in Mediation from USJ & Université Catholique de Paris.

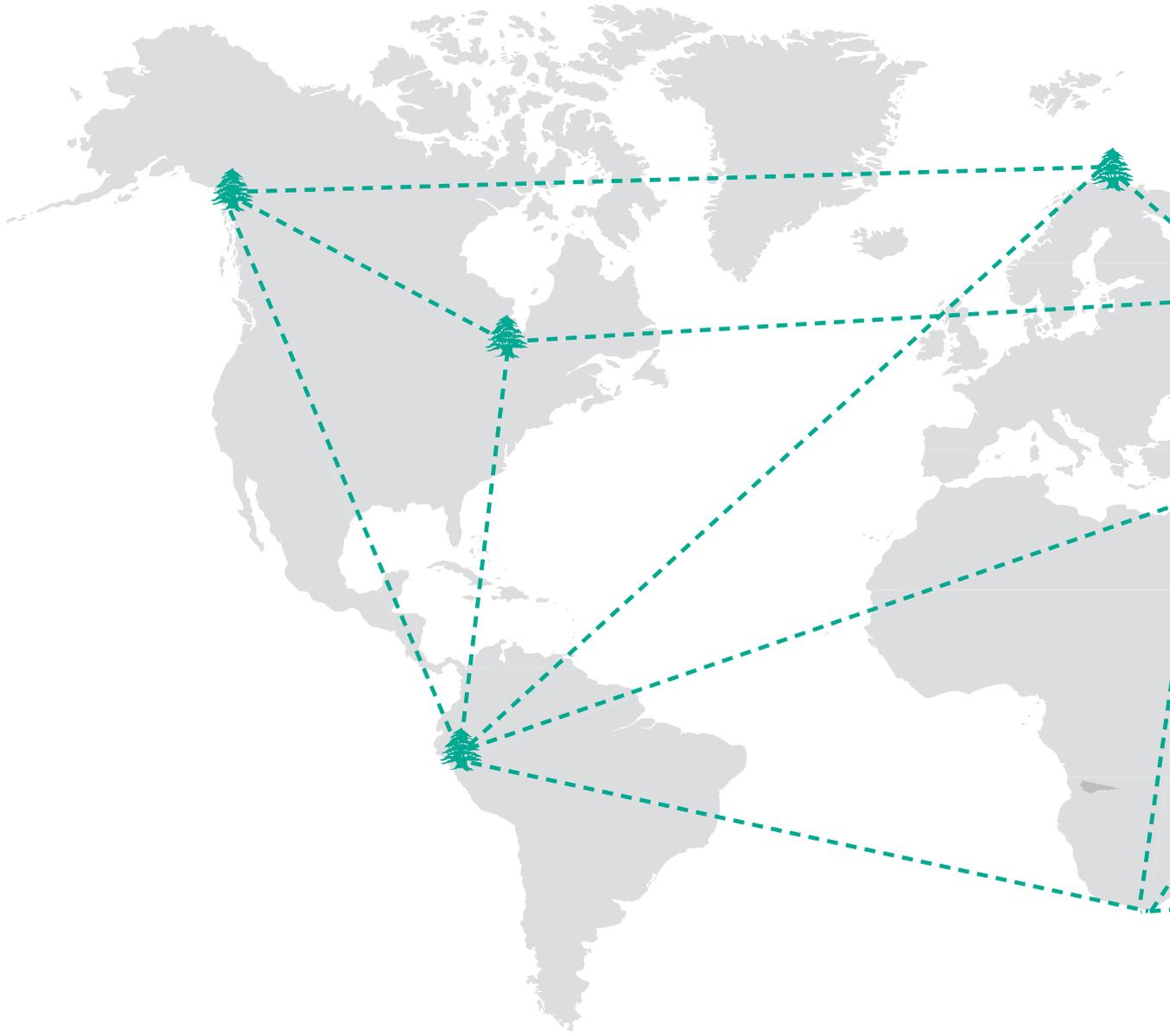


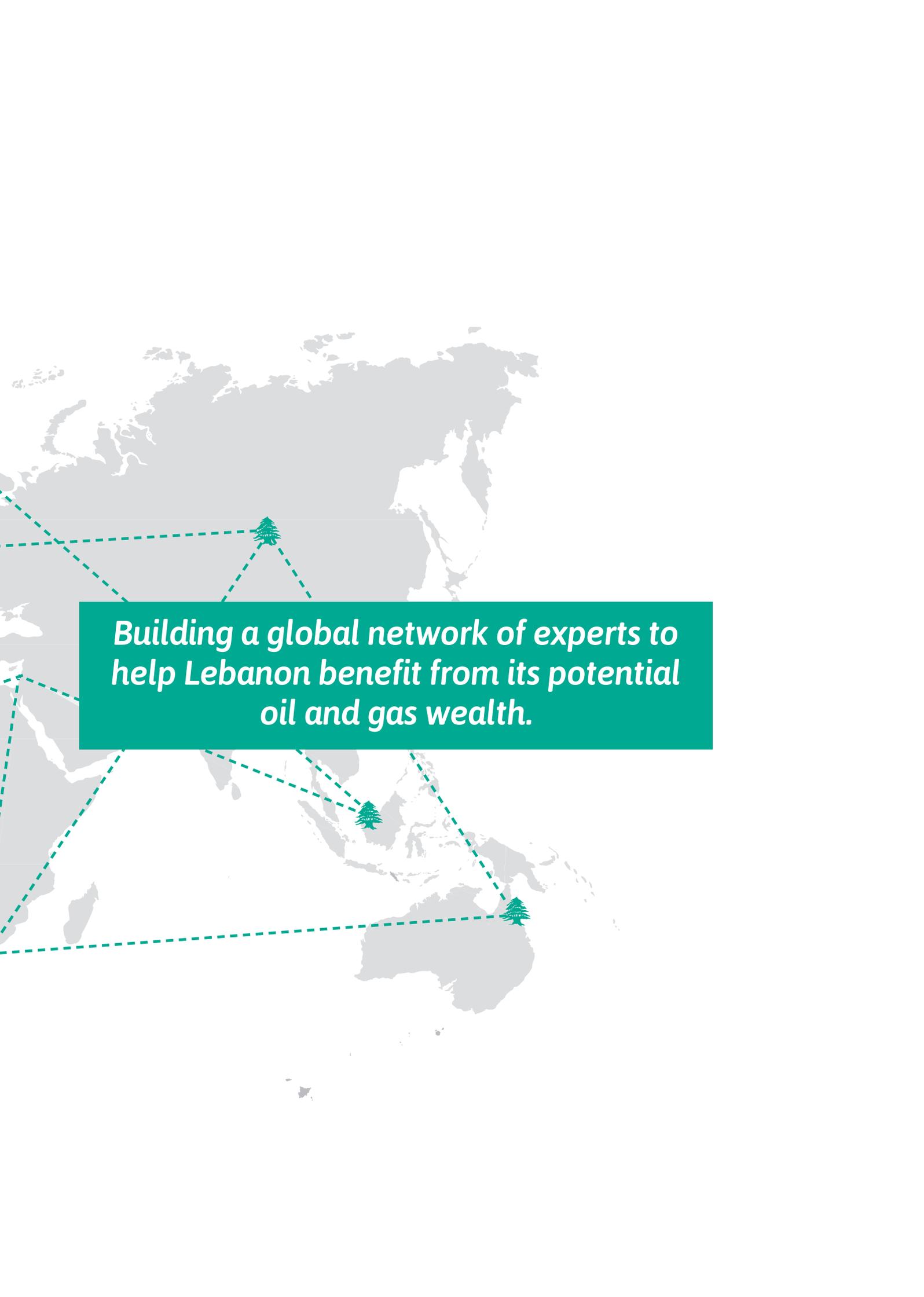
Julien Courson is currently a Consultant & Trainer in Capacity Development, Advocacy, Conflict Resolution, and Oil & Gas Governance.



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A stylized world map in light gray is the background. A teal rectangular box is centered horizontally and contains white text. Three teal tree icons are placed on the map: one in North America, one in Southeast Asia, and one in Australia. Dashed teal lines connect these tree icons to form a network. The text box is positioned over the Atlantic Ocean, between North America and Europe.

Building a global network of experts to help Lebanon benefit from its potential oil and gas wealth.

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