

# Lebanon's awkward first steps

For more than 14 years Lebanon has watched in frustration as neighboring Israel and Cyprus have searched for and discovered rich reserves of hydrocarbon fuels under their maritime waters. Political instability and ineptitude had ensured that Lebanon remained a jealous bystander during this period. However, the passing of the first implementation decree pertaining to the Offshore Petroleum Resources Law on January 4 suggested that the country was finally on course to join the bonanza.

A short flurry of hubristic statements for the press at the beginning of the year suggested the petro-dollars would soon be bulging from the state's coffers, providing plenty for all. However, while credit must be given to the Ministry of Energy and Water (MoEW) for having finally got the show on the road, some faltering and somewhat dubious occurrences suggest the country has stumbled as it shoots out of the starting blocks in its race for hydrocarbon riches.

Gebran Bassil, minister for energy and water, confidently told reporters back in January that the Petroleum Administration (PA) would be named within a month, the first tender round would begin within three months and the first exploration contracts would be signed by the end of the year. However, as Executive went to print at the end of April, the PA had yet to be appointed.

"This administration is the most important thing for the pre-launching of the exploration rounds and the tender rounds," says Roudi Baroudi, an independent energy consultant and secretary general of the World Energy Council's Lebanon member committee. "Once the PA has been nominated they can immediately move ahead with the different consultants they have to start preparing the bid rounds for exploration and to define which blocks they would like to have the companies bid for."

## From council to council

The passing of the decree approving the bylaws of the PA in early January should have immediately paved the way for the creation and staffing of the PA. However, on January 29 the Shura Council, Lebanon's administrative advisory body, issued an opinion noting no less than 51 points of contention with the decree. In a copy of the document obtained by Executive, the first point raised is that it is incumbent upon ministers to send decrees to the Shura Council before they are sent to the Council of Ministers (COM), Lebanon's cabinet. It notes that in this case the Shura Council was bypassed and the decree was submitted directly to the COM.

Cesar Abou Khalil, advisor to the energy minister, said, "The Council of Ministers re-voted on this decree and confirmed it, so it is pointless to discuss what issues the Shura Council has raised now that the Council of Ministers has used its prerogatives and have confirmed it. It is confirmed and in vigor."

Shura council rulings on decrees are advisory, but they ensure that they are harmonious with Lebanese laws and the constitution. However, the course of events ensured that the COM was caught in a bind whereby, even if they had wanted to, it would have been difficult to adopt the Shura Council recommendations after already issuing the first decree. In such a scenario they would have been obligated to pass a revised decree, which would have left them looking both incompetent and inconsistent in the eyes of the prospective oil companies. The COM voted on March 21 to ignore the Shura Council and proceed with the January decree in its original form.

The majority of the 51 points from the Shura ruling are for minor technical details, but some significant issues are raised with regards to the independence enjoyed by the PA. For example,

the Shura Council ruled that article 6 of the decree that gives the minister power to impose punitive sanctions on the PA, including a deduction in benefits, was in contradiction to the Offshore Petroleum Resources Law passed on August 24, 2010. In that law the PA is afforded financial and administrative independence under the Wasiyeh, or tutelage, of the MoEW and it is the level of control incorporated into this Wasiyeh to which the Shura Council took exception.

Abou Khalil from the MoEW, however, argued, “[The Petroleum Administration] is purely advisory... They have administrative independence because they are named by the COM and only the COM can dismiss them. The minister cannot dismiss any of them. But by law 132, [August 28, 2010] it is an advisory body to the MoEW. Under our watch, there will no breach to the constitution. The minister is the head of his sector.”

According to Abou Khalil the ministry is fighting a precedent set during the time of former Premiers Rafiq and Saad Hariri, as well as Fouad Saniora, which “hollowed the ministries by creating these independent bodies which are under the tutelage of the prime minister... The oil sector should be under the minister and it is the same in all of the ministries.”

Another significant objection of the Shura Council was to the proposed rotating chair of the PA. Under the MoEW plans the six members will each spend a year presiding over the body, which breaks with the convention of appointing one chairperson within such bodies. Opposition member of Parliament and head of the Parliamentary Energy and Public Works Committee, Mohammad Qabbani, is opposed to the level of control the MoEW is set to have over the PA arguing, “The idea of the presidency rotating between the six members will only weaken the power of the administration.”

Abou Khalil confirmed this was for all intents and purposes true, but argued that it is a positive and necessary development: “When there is a rotating presidency there is a cross auditing between the members... This sector, we believe, will become one of the main drivers of our economy and development in the near future. We need to be tough on this issue, we don’t want to create another body that can become stronger than the government.”

The COM is within its rights to either heed or ignore judgments by the Shura Council on proposed decrees, but the fact that the Shura Council was not initially consulted, as is both protocol and law, and topics of considerable import were later contested, hardly sets a promising precedent for the development of this nascent industry.

## **Filling seats in the PA**

Malek Takieddine, a Beirut-based legal consultant who works closely with international oil companies in the United Kingdom and Iraq, pointed out that the delay in appointing the members of the petroleum administration has been a cause for concern for some oil companies. Nonetheless, he argued there is still strong interest from international players in Lebanon’s play, given the initial achievements of the ministry.

With the decree in its original form re-voted on by the COM, Prime Minister Najib Mikati told Parliament in mid-April that the PA would be announced within the month, and as Executive went to print the government was in the process of selecting candidates through the Office of the Minister of State for Administrative Reform and Development (OMSAR).

There was a time lag of some three weeks between the passing of the decree in March and the launching of this process, raising concerns that the major political players had tried and failed to barter the PA appointments before moving to the more formal approach. Going forward, which strings will be pulled to influence the appointment of the PA and the PA’s day-to-day

operation remains an open question.

"If a minister decides to go through a procedure where there is deliberating, accepting applications and examining CVs before taking it to the Council of Ministers then we hear such accusations," said Abou Khalil. "And if we propose the names right away to the COM they scream 'oh, they brought their guys.'"

The oil and gas industry is incredibly complex, with large sums of money at play, and so the PA requires high caliber professionals with extensive and particular skills —however, qualified candidates will not be easy to land.

One of the pre-requisites for applicants is 10 years experience in the industry, but Takieddine reasoned, "It needs to be clarified when we say experience, it needs to be specifically upstream." In common speech upstream is a reference to stages within the industry such as exploration and production, while much of Lebanon's current involvement, and therefore skill-base, in the sector is in downstream activities such as marketing and distribution.

Furthermore, industry opinions point out that the wages envisaged for members of the PA, while being hugely generous for a Lebanese government employee — expected to be around \$10,000 per month — would be considerably lower than similar-level private sector posts in the oil and gas industry. The majority of Lebanon's talented workers with suitable upstream experience are based abroad and the government may struggle to lure them home with such wages.

The MoEW's Abou Khalil dismissed these concerns, assuring that the quality of the applications were more than up to scratch. "They will be stunned when they see the CVs," he said, and while acknowledging that the wage would be small compared to what could be expected from comparable posts with major oil firms, he was confident that enough talented Lebanese would want to share in the development of this potentially very lucrative sector for the country.

As with all public sector posts there is an age limit for applicants, which in this case has been bumped up from 35 to 57. However, Takieddine argued that the posts on the PA are perfectly suited for highly skilled and experienced people who are near, or past, retirement age, and would be more likely to accept a considerable drop in pay in order to return home and take on these important and challenging roles. Although the maximum age is 57 he argued an exception could be beneficial in this case. When asked if the MoEW would consider such a move Abou Khalil responded, "Then we would have a real problem with the Shura Council...We have pushed it to the maximum that we could."

Perhaps one of the biggest hindrances to filling the PA with qualified people is the rigmarole of satisfying the sectarian divide. Within the pool of grade one posts in government, such as the PA, there has to be a balance in the representation of Muslims and Christians according to the constitution. However, over the years, it has become protocol to balance the allocations not just across the whole body of grade one posts but in every administrative body across the country's main religious sects. Qabbani argued, "It should not apply to every administration. It should be a ratio that applies to the whole basket of first grade positions. It's suicide."

Considering the massive importance of administering and managing the oil and gas sector properly, there have been calls for the PA to be staffed purely on ability. "In the current arrangement qualifications and merit are not being sought after but rather it will be the blackmailing of each community against the others," says Yahya Hakim, board member of the Lebanese Transparency Association, the local arm of the global anti-corruption organization. "Each community will be putting [forward] someone who speaks in their name, not someone who can really run the show. So all of the issues will be political and not in the hands of the

professionals as it should be.”

Although it is only a legal requirement to balance the sectarian ratios across all first grade posts, and not in every administration, it seems that this practice will still be applied to the PA. “We will employ people with the best capabilities while respecting the Lebanese system,” said Abou Khalil, in reference to the sectarian balancing act in top level recruitment.

Minister Gebran Bassil has surrounded himself with a technical staff that has worked assiduously to lay the groundwork for the development of Lebanon’s oil and gas sector. Some progress is being made. However, the irregular way in which the decree was passed raises concerns over the integrity of the approach. All eyes are now focused on exactly what kind of body the PA will be and what role it will play in the evolution of this embryonic, yet potentially vital, industry.