



Policy Paper

Accession of Lebanon to the Extractive Industries Transparency Initiative (EITI): Lessons Learned, Analysis, and Legal Aspects of Accession

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Abstract

This policy paper recommends that Lebanon should join the Extractive Industries Transparency Initiative (EITI). The EITI can benefit Lebanon by providing transparency in Lebanon’s industrial sector, which serves the public interest. It further could improve Lebanon’s economy and accountability by empowering communities and forming a relationship between government and civil society. The EITI also can help in building a trustworthy reputation for Lebanon, making Lebanon an appealing environment for investors.

Keywords: EITI; Lebanon; oil and gas; transparency; law; corruption; accession and compliance; customary law; NOCs; IOCs; Equator Principles

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وثيقة سياسة عامة

انضمام لبنان إلى مبادرة الشفافية في مجال الصناعات الإستخراجية (EITI): الدروس المستخلصة، التحليلات، والجوانب القانونية للانضمام

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وأستاذ في القانون، كلية القانون، جامعة قطر

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الجهة المنتفعة: الجمعية اللبنانية لتعزيز الشفافية

ملخص

توصي هذه الورقة بانضمام جمهورية لبنان إلى مبادرة الشفافية في مجال الصناعات الاستخراجية (EITI) إذ يستفيد لبنان من هذه الأخيرة من حيث الشفافية في القطاع الصناعي مما يخدم المصلحة العامة. كما تسهم مبادرة الشفافية في مجال الصناعات الاستخراجية (EITI) في تحسين الاقتصاد اللبناني والمساءلة من خلال تمكين المجتمعات وبناء علاقة بين الدولة والمجتمع المدني. كما تسهم مبادرة الشفافية في مجال الصناعات الاستخراجية (EITI) في بناء سمعة موثوق بها للبنان مما يجعل منه بيئة جاذبة للمستثمرين.

الكلمات المفتاحية: مبادرة الشفافية في مجال الصناعات الاستخراجية، لبنان، النفط والغاز، الشفافية، القانون، الفساد، الانضمام والامتثال، القانون العرفي، شركات النفط الوطنية، شركات النفط الدولية، مبادئ التعادل

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Background

The Extractive Industries Transparency Initiative (EITI) sets a global standard for the promotion of open and accountable management of natural resources. Following recent discoveries of gas in Lebanon, there has been a growing interest in ensuring that more transparency and good governance are employed in the management of Lebanon's energy reserves and in the legal aspects of its investment regime.

The interest of the Lebanese Transparency Association (LTA), in particular, in the EITI, stems from the EITI's key role as a leader in the fight against corruption, the promotion of transparency and good governance in the conduct of business in general, and the conduct of energy business in particular. In addition, LTA's new strategy focuses among other things on its advocacy role concerning governance issues generally.

Executive Summary

Lebanon's petroleum exploration started in the 1930's. Between 1947 and 1967, seven wells were drilled. The Lebanese Petroleum Company drilled the first well in 1953. Geologists were looking for methane and heavy hydrocarbons, but not oil, because oil explorations were expensive. Explorations came to a halt due to the ongoing civil war in Lebanon. However, in the 1990's explorations began again in an offshore area. By 2013 the area had been marked and calculated. But no new gas wells had been drilled. Although Lebanon made it to a pre-qualification round for offshore licensing in 2013 and forty-six companies were successful, the completion of this licensing is pending due to lack of governmental approvals.

These efforts in petroleum explorations happened while Lebanon was facing many conflicts. The first conflict in Lebanon took place in 1922, between sectarian groups. It led the Europeans to seize control of the country. In 1926 France succeeded to control parts of Lebanon, and the first Lebanese constitution was promulgated. In 1940, during World War II, Britain sent troops to Lebanon to face the Germans, ultimately leading to Lebanon's struggle for independence in 1941. After independence, the Palestine-Israel conflict arose in 1948; this conflict caused issues for Lebanon since it had accepted Palestinian refugees, causing a real sectarian conflict. These conflicts eventually resulted in a civil war in 1958.

Sectarian-based conflict has impacted efforts in petroleum development. Lebanon is torn between tribes, religious groups, and political parties. This conflict has contributed to creating the conditions for patronage and corruption. There are three main types of corruption in Lebanon: political corruption, bureaucratic corruption, and grand corruption. Corruption has influenced the governmental system as well, leaving the oil industry with no proper management.

Statistics and rankings of corruption rates establish that Lebanon lacks transparency; that is why this paper recommends Lebanon to join the EITI. The EITI can benefit Lebanon by providing transparency in Lebanon's industrial sector, which will serve the public interest. It further could improve Lebanon's economy and accountability by empowering communities and forming a relationship between government and civil society. The EITI also helps in building a trustworthy reputation for Lebanon, making Lebanon an appealing environment for investors.

1. What is the EITI?

The EITI sets a global standard for transparency in extractive industry payments and receipts. It promotes an open and accountable management of extractive resources. Providing transparency to the system is done with the goal of strengthening governments and industrial companies. Additionally, EITI aims to inform public debate and promote understanding among civil society by requiring implementing countries to form a Multi Stakeholder Group (MSG). Such groups consist of representatives from the government, oil companies, and civil society.

Companies that operate in an EITI member country are required to publish what they pay to governments, and governments are required to publish what they receive from companies. The companies are obligated

to disclose information along the entire extractive industry value chain, from the point of extraction, to how the revenue makes its way to the government, to how the revenue benefits the public. A state that is a party to the EITI is also obligated to submit reports annually, showing its progress and implementation of EITI regulations.

1.1. History of the EITI

The idea of the EITI was first raised in 2002, when Tony Blair, former UK Prime Minister, outlined the idea in a speech delivered at the World Summit on Sustainable Development in Johannesburg, September 2002. In June 2003, the UK Department for International Development (DFID) held a conference in London that included representatives from civil society, government, and companies. A statement of principles to increase transparency in the extractive sector resulted: the 12 EITI principles. Following this meeting, a few countries began to explore how these principles apply and later on signed to the EITI.

The second meeting of the EITI-implementing countries took place in London in March 2005; in that meeting, it became increasingly clear that the EITI was not evolving. However, in 2009 the EITI board issued new versions of the EITI rules, in hopes of making the EITI meaningful. These rules replaced the EITI validation guide and included six “policy notes” that provided further clarification. These notes became requirements and were addressed as steps that implementing countries had to follow. In the 2011 edition of the EITI rules, those requirements were more clearly articulated, and a number of new requirements were added, to ensure EITI quality. As a result, there were 21 requirements that implementing countries must follow and are, with the agreement of the stakeholder groups, encouraged to go beyond.

Afterwards, the EITI began charting the next steps for transparency; the results of their strategies in resolving the issues were launched in Sydney in May of 2013. Goals included making EITI reports more understandable, making EITI reports more relevant in each country, requiring better and more accurate disclosure, recognizing countries that go beyond the minimum, and making a clearer set of rules.

Ultimately, a new set of requirements was introduced to the public in a conference in Peru in 2016. This latest revision is the EITI standard.¹

1.2. Policy of transparency

The reason EITI requires transparency is that the EITI believes that a country’s natural resources, such as oil, gas, metals, and minerals, belong to its citizens. The way those natural resources are extracted plays a significant role in economic growth and social development. Poor natural resource governance typically leads to corruption and conflicts.

Lack of transparency creates a perfect environment for companies to engage in corrupt deals, leading to conflict with concerned citizens about where the money goes. More openness and public awareness of how wealth from a country’s extractive sector is used and managed is necessary to ensure that natural resources benefit all.

1.3. Legal status of the EITI

The EITI sets an international standard for transparency in extractive industry payments and receipts. In countries participating in the EITI, companies are required to publish what they pay to governments, and governments are required to publish what they receive from companies. When a state joins the EITI, its compliance is completely voluntary rather than mandatory. The organization operates on a “purely voluntary approach”, where governments are “encouraged” but not “required” to comply with the principles of transparency.

Having said that, simply because the EITI has no legal enforcement does not mean it is useless or that it lacks effectiveness. The idea EITI promotes is stronger than to let its voluntary nature deprive it of

¹ *History of the EITI: How It All Started, Where We Went, and Where We are Now*, EITI, <https://eiti.org/history> (last visited 30 November 2016).

its effectiveness. It instantly shields a country that has joined with a strong statement that implies willingness to enter into clean, open, and free of corruption contracts. The countries gain increased prestige and recognition, which will encourage other countries and investors to do business with them.

The voluntary nature of the EITI is not considered a weakness. Many regulations are purely voluntary and have other consequences, mainly political and reputational, that make their existence matter. Another reason for its significance is the possibility of an emerging customary law of transparency.

1.3.1. Political and reputational consequences

An example of the practical use of voluntary regulation is International Law itself. It includes hundreds of treaties that allow a state to sign of its own free will and have no legal consequences if the state decides to simply withdraw.

Having said that, like the EITI, a treaty has other consequences, both political and reputational. For example, if a state signs and ratifies the Nuclear Nonproliferation Treaty (NPT), which mainly prevents using nuclear weapons, and that state party later decides to withdraw from the treaty, it has the right to leave of its own free will and no legal consequences will be applied. But it cannot be said that there will be no consequences to this action: even if there will be no legal ones, there will definitely be political ones. What kind of message will the country send to the world? Why did it withdraw? What does it have to hide? Withdrawal sends an implicit message that something doubtful is going on, that the state party possesses nuclear weaponry even if it does not. Its unjustified move will put the state in a questionable position vis-a-vis other states and will hurt its reputation. It will definitely raise a red flag about the withdrawn state. But if the party remains a member state to the treaty it will have a strong position that the country is a Non-Nuclear Weapon State (NNWS). Its membership shows confidence and stability, avoiding the harmful consequences of withdrawal.

The situation is exactly the same when talking about the political role the EITI plays for states. As with the NPT, the EITI is purely voluntary and has no legal enforcement. Using the same hypothetical situation shows the other similarities between the situations. If a state joins the EITI, which requires implementing its standard of transparency, and later, the state decides to withdraw, no legal consequences will apply. But political ones definitely will. Similar questions as with the NPT will rise if the state decides to withdraw. Why did the country withdraw? Why was it unable to comply with the transparency standards? What is there to hide? Withdrawal will raise concerns that corruption is practiced within the state, concerns which will hurt the state's business reputation and classify it as unreliable among other states. Withdrawal sends an implicit message that something shady is going on and puts the state in a weak position.

In contrast, if the party remains a member in the EITI, it will be in a strong position. Its membership makes a strong statement about the country's confidence and transparency in doing business, which will increase its chances of dealing with other states. It is a signal to investors and financial institutions that there will be increased transparency, accountability, and governance.

If the EITI has that powerful impact on a country's business reputation, joining the EITI is the strongest solution for a country like Lebanon that lacks credibility and experience in the oil and gas business. Joining EITI is the first step to a strong and stable reputation that will lead the country to attract new deals and businesses from other investing countries.

Having said that, the EITI is not exclusive to poor or weak countries that do not know how to manage their resources. The EITI sets a global standard to promote transparent and accountable management of natural resources. Countries with rich natural resources will benefit as much as poorer ones by adding transparency: for any country, it increases trust between the country and its investors and between the country and its citizens. More openness and public information about how wealth from a country's extractive sector is used and managed is necessary to ensure that natural resources benefit all. It seeks to strengthen government and company systems, inform public debate and promote understanding. A company's belief that it is required to comply with certain rules, such as

the EITI transparency standards, to avoid being expelled and to prevent exposure to political and reputational risks, is a force by itself.

To support the points above, this paper will provide practical evidence of the EITI's effectiveness through information found in the EITI progress report of 2016. The graph below shows the compliance of countries despite the voluntary nature of EITI, which is an indicator of its effectiveness:²

Better disclosure from the extractive sector

Better disclosure from the extractive sector

showing who discloses what

y Yes p Partial NA Non-Applicable Y/P/NA Capital letters and colour indicate changes in disclosure from previous years

	Latest report	Oil	Gas	Mining	Other sectors	Licence register	Production volumes	Beneficial ownership	Subsidiary reconciliation	Disaggregated by company	Disaggregated by company & revenue stream	Social payments	Project by project reporting	Disclosure electronic file	Received by the government, US\$
Afghanistan	2011		y	y						y	y				101,776,401
Albania	2014	y	Y	y	Y	y	y			y	y	p			17,398,069
Azerbaijan	2013	y	y	y			y	NA	Y	Y	NA				19,581,000
Burkina Faso	2012			y	y	y	p			y	y	y			358,092,143
Cameroon	2013	y	y	y		y	y	P	y	y	y	y			1,597,000,000
Central African Republic	2010			y						y	y				347,000,000
Chad	2013	Y	Y	Y	Y		Y			Y	Y			Y	1,700,000,000
Côte d'Ivoire	2013	y	y	y		y	y			y	y	p			687,088,090
Colombia	2013	Y	Y	Y		P	Y			Y	P	P			18,123,000,000
Democratic Republic of the Congo	2014	y	y	y		y	y	p	y	y	y	y		p	2,083,244,893
Ghana	2014	y	y	y		p	y	p	y	y	y	Y	y		1,623,108,899
Guatemala	2013	y	y	y		p	y			y	y				182,468,408
Guinea	2013			y		p	y			y	y	y			293,764,326
Honduras	2013	Y		y		p	y		p	y	NA		y		10,602,263
Indonesia	2013	y	y	y		y				y	y	Y	y		33,591,429,421
Iraq	2013	y	y	p		P	Y			y	y				81,166,908,244
Kazakhstan	2014	y	y	y		p	Y	NA	y	y	y	y	y		26,885,161,002
Kyrgyz Republic	2014	y	y	y		y	p	p	y	y	y	Y			181,000,000
Liberia	2013	y	y	y	y	P	y			y	y			y	197,530,000
Madagascar	2013	y	y	y		y	P		y	y	y	P			193,790,760
Mali	2013	Y	Y	y		P	y	p	NA	y	y	y			448,997,391
Mauritania	2013	y	y	y		y	y			y	y	y			362,821,460
Mongolia	2014	y	Y	y		P	y		y	y	y	y		y	1,065,401,000
Mozambique	2014	y	y	y		y	y			y	y	y	Y	y	1,053,599,553
Myanmar	2013	Y	Y	Y	Y	Y	Y	NA	Y	P	Y	Y	Y	Y	3,335,080,755
Niger	2013	y	y	y		p	p			y	y		P		440,603,229
Nigeria (only mining)	2012			y		y	y	p		y	y				177,501,388
Norway	2013	y	y			y	y	NA	y	y	NA		y		56,137,148,644
Peru	2013	y	y	y		y	p			y	y				5,711,486,805
Philippines	2013	y	y	y		p	y		Y	y	y	y	y		982,102,816
Republic of the Congo	2012	y	y	y		y				y	y				3,087,343,000
São Tomé and Príncipe	2013	y	y			p				y	y	p		Y	1,280,006
Senegal	2013	Y	Y	Y	Y	p				Y					82,183,000
Seychelles	2014	Y	Y			Y		P		Y	Y	Y			299,879
Sierra Leone	2013	y	y	y		y	y		y	y	y	y			603,366,417
Solomon Islands	2014			y			y			p		p			334,953
Tajikistan	2014	Y	Y	Y		P	Y	P		Y	Y	Y			424,463,257
Tanzania	2014	y	y	y		P				y	y				754,302,420
Timor-Leste	2013	y	y	p		P	p			y	p	y	NA		3,054,000,000
Togo	2013	NA		y	y	y	y		y	y	y	y			22,272,506,709
Trinidad and Tobago	2013	y	y			p	Y		P	y	y	y			3,305,270,000
Ukraine	2013	Y	Y			Y	P								3,354,625,000
United States of America	2013	y	y	y	y	y	y			y	y			y	24,440,000,000
Zambia	2014	y	y	y		p	y	p	p	y	y	P		y	1,544,031,692

The Extractive Industries Transparency Initiative (EITI) www.eiti.org / 11 /

² Extractive Industries Transparency Initiative, *2016 Progress Report: From Reports to Results*, 11, 13, https://eiti.org/sites/default/files/migrated_files/progressreport.pdf.



December 2015

 **Fredrik Reinfeldt**, former Swedish Prime Minister, nominated as next EITI Chair.

 **United States's citizens can track their dollars in first EITI Report**
 "This is the public's money. To have a process that is very transparent and open with how that money comes in and how it's dispersed is critical to all of us." **Greg Gould**, Director, United States Office of Natural Resource Revenue

 **Ukraine moving towards greater transparency**
 "The EITI Report opens a way to a greater transparency where all players have to work in transparent and unifies rules." **Volodymyr Demchyshyn**, Minister of Energy and Coal Industry

 **Myanmar strengthens its democratic process**
 "This EITI Report is a driving force for strengthening democratic process and building trust among stakeholders." **HE Dr Maung Maung Thein**, Union Deputy Minister, Ministry of Finance

January 2016

 **Colombia embeds transparency**
 "EITI ensures that transparency and accountability are embedded in the way we manage our extractive industries. The first EITI Report, accounting for USD 18bn of government income, is a step forward." **Maria Isabel Ulloa**, Deputy Ministry of Mining

The 2016 EITI Global Conference will take place on 24-25 February in Lima, Peru

From Reports to Results

EITI 2016 Global Conference
Lima, Peru 24-25 February



1.3.2. The possibility of an emerging customary law of transparency

A customary law is evidence of general practice accepted as law. It falls under the primary sources of international law:³

International conventions.

International custom.

General principles of law.

The emergence of a customary law depends on two elements: an objective element, that is, evidence of general practice, and a subjective element, that is, acceptance of the practice as law. The practice must be accompanied by the belief that this practice is required by law and is binding. Both the objective and the subjective elements are needed to establish a new rule of international custom.

In the case of the EITI, the general practice is the implementation of the transparency standard that requires the disclosure of contracts and information. The acceptance of the practice as law applies to the countries that comply with the practice in the belief that it is binding.

Therefore, if the transparency standard continues and proves to be a fundamental standard applied in doing business, and countries continue to apply it, practice and time will establish the belief in it as an obligation required by law. It may then emerge to become a customary law. So Lebanon joining the EITI is not only immediately beneficial but also allows the country to make a long-term contribution to the emergence of customary international law.

1.4. Process for applying to the EITI

EITI is a global organization that promotes transparent management of natural resources such as oil and gas. Its standards apply from the moment of extracting the natural resource, to the process of maintaining the revenue through the government, all the way to the benefits of the state and public.

1.4.1. Steps to join the EITI

There are several steps to follow in the application for membership of EITI.

First step: A state must show some government commitments, which are mentioned in provision 1.1 of the EITI Requirements: The state must make an unequivocal public statement that shows its intention to implement the EITI, and the statement must be issued through the head of state or government or by a person who is properly assigned as a government representative. Further, the state must appoint a senior person to implement the EITI.

Second step: The state must take steps to engage the companies, in accordance with provision 1.2 of the requirements.

Third step: The state must engage civil society in the process of implementing the EITI and ensure that there are no obstacles that will negatively affect its participation, in accordance with provision 1.3.

Fourth step: The state must establish a multi-stakeholder group, in accordance with provision 1.4.

Fifth step: Under provision 1.5, the state must issue a work plan through the multi-stakeholder group that consists of costs and measurable actions that meet the report deadlines issued by the EITI.⁴

Those five steps must be considered prior to filling the application form. If the requirements are fulfilled, then the state might become a candidate and start working on the first report in making some issues transparent. This report may be regarding the laws, fiscal regimes, and contracts that the country has signed, as well as the income to the government.⁵

3 Statute of the International Court of Justice, art. 38(1), 24 October 1945, <http://www.icj-cij.org/en/statute>.

4 *Guide to implementing the EITI Standard: Requirement 1, Governance and oversight of the EITI process*, EITI, <https://eiti.org/guide#sign-up-and-governance> (last visited 2 January 2018).

5 See EI Academy (Extractive Industries Academy), *What is EITI? And why you want it*, YouTube (28 April 2015), <https://www.youtube.com/watch?v=Fy1x03cEjB4> (one of a series of videos in a digital library that explains extractive industries issues and technology in brief).

2. NOCs and IOCs in Lebanon

For international oil companies (IOCs) or national oil companies (NOCs) to function in Lebanon, they have to have the rights to explore, produce, and develop oil through a contract called the Exploration and Production Agreement (EPA). The EPA is a contract between the state and the NOC or IOC. Companies that sign the EPA are required to comply with all of the requirements of the Offshore Petroleum Resources Law (OPR).⁶

Energy-producing countries generally have an NOC that partners with an IOC to explore, produce, and market the oil or gas. It is important to note that Lebanon does not have an NOC. Examples of competent NOCs, such as Saudi Aramco and Qatar Petroleum, are found in neighboring countries. Most oil companies in Lebanon are internationally-based companies operating in Lebanon.

The East Mediterranean basin is a well-known area that has 1.7 billion barrels of undiscovered oil, and 122 trillion cubic feet.⁷ Despite the great reserves hidden in Lebanese waters, Lebanon is not yet an oil-producing country. All the oil consumed in Lebanon in 2008 was imported.⁸ As of 2012, the leading Lebanese importers and distributors of petroleum products are MEDCO, Total, and HYPACO.⁹ Lebanon used to be a refinery center for crude oil but both Lebanese oil refineries, Zahrani and Tripoli, had to be closed down due to damage and general instability caused by the civil war.¹⁰

2.1. Regulatory bodies for oil and gas in Lebanon

Petroleum activities in Lebanon are regulated and managed by the following regulatory bodies:

Council of Ministers: This is responsible for setting the state's general petroleum policy and managing petroleum resources in the country.

The Ministry of Energy and Water (MEW): This is responsible for ensuring a good implementation of the petroleum policy and related laws and for monitoring and supervising petroleum activities. It signs contracts with IOCs and takes necessary measures to protect water, health, property, and the environment from pollution.

The Lebanese Petroleum Administration (LPA): This is an autonomous public entity created in 2012, under the OPR Law, to regulate, manage and monitor all petroleum activities. However, some of its financial and administrative decisions are subject to the approval of the MEW.

2.2. Laws regulating oil and gas in Lebanon

As onshore regulations are yet to be enacted, one main law regulates petroleum activities within Lebanon's territorial waters and the exclusive economic zone.

Offshore Petroleum Resources Law No. 132/2010 (OPR Law): The OPR Law, previously mentioned, is the most important law in regulating the oil and gas industry in Lebanon. It includes 10 chapters that consist of 77 articles that cover the processes of licensing and exploration. The OPR Law is supplemented by the previously-mentioned Petroleum Activities Regulations (Decree No. 10289, dated 30 April 2013) (PA Regs). These cover the legal representation of the rights of interest holders, as well as exploration, production, and transportation rights.

6 Lebanese Petroleum Administration, *The Exploration and Production Agreement*, <http://www.lpa.gov.lb/epa.php> (last visited 3 January 2018). This page provides a link to a blank EPA contract form, which can also be found at: <http://www.lpa.gov.lb/pdf/Decree%20%2043%20-%20EPA%20-%20Rev%206%20-%2029-09-2015.pdf>.

7 see BankMed Mkt. & Res. Div., *Oil and Gas in Lebanon* (2014), <https://www.bankmed.com.lb/BOMedia/subservices/categories/News/20150515170326030.pdf>.

8 See Central Administration for Statistics, *Lebanon in Figures* 8, 11 (2008), <http://www.cas.gov.lb/images/PDFs/Lebanon-Figures-2008.pdf>.

9 *Oil Companies in Lebanon | List of Largest Oil Companies in Lebanon*, Marcopolis, (16 August 2012), <http://www.marcopolis.net/top-oil-and-gas-companies-in-lebanon.htm>.

10 Bernadette Michalski, *The Mineral Industry of Lebanon*, in U.S.G.S. Minerals Yearbook (1997), <https://minerals.usgs.gov/minerals/pubs/country/1997/9221097.pdf>.

Delineation and Declaration of the Maritime Regions of the Lebanese Republic Law No. 163/2011: This law consists of 18 articles that determine Lebanon's internal waters, territorial sea, contiguous zone, exclusive economic zone, and continental shelf. It is consistent with the provisions of the United Nations Convention on the Law of the Sea.¹¹

3. Lebanon political history and sectarianism

Lebanon is considered a parliamentary democratic country;¹² in a way, this structure affects political interests. Political interests can be achieved through the formation of groups and associations. Therefore, the way that people organize themselves in social groups, or collectives, contributes significantly in determining the political system in the country.¹³ In Lebanon, there are a number of religious sects and groups with competing interests, which has periodically resulted in conflicts.

In 1922, the first conflict took place in Lebanon between the Druze and Maronite sects, which led Europeans to seize control of the country.¹⁴ In 1926 France succeeded in controlling parts of Lebanon, and the first Lebanese constitution was promulgated. The constitution recognized the role of eighteen official religious sects and recognized all citizens as equals.¹⁵ In 1941, during World War II, Lebanon struggled for independence.¹⁶ In 1943, the national pact republic was established, which recognized sectarianism in Lebanon and set a foundation for a "sectarian power-sharing system" as a base for the Lebanese governmental system,¹⁷ and Lebanon achieved independence.

Conflicts continued in the following years. Israeli conflicts with Palestine arose in 1948. This conflict caused issues to Lebanon since it had accepted Palestinian refugees, causing a major sectarian conflict.¹⁸ That situation led Christians to call for power distribution and called for declaring Lebanon as a sectarian republic. However, these calls failed and crisis arose, leading to a civil war that lasted from 1975 until 1990.¹⁹ The 1989 Taef Agreement, *Document of National Accord*,²⁰ sought to balance the diversity in the political system to terminate the civil war. The Taef Agreement redistributed powers evenly between Muslims and Christians in Lebanon.

Unfortunately, the Taef Agreement failed to resolve various issues. Political issues between Sunni and Shi'a left no choice but to sign another agreement, titled the Doha Agreement, in 2008. It was a trade-off between the rights of maintaining weapons for Shi'a and pursuing special relations with Iran, with the Sunni maintaining the power of the Prime Minister in running economic and internal-domestic affairs.²¹ The Doha Agreement, as with others, did not resolve the endless sectarian conflict in Lebanon.

Once a system is built based on the diversity of public will, then the interest of diverse groups is going to evolve into new conflicts.²² Further, it is predictable for the Lebanese political future that the struggle of maintaining powers among the sectarian groups is going to be a continuous conflict. Recently, this struggle has been shown in the assassination of Rafiq Hariri in 2005. "This is reflective of the sharp divisions along

11 *Lebanon's Promised Oil Wealth*, The Monthly, December 2013, at 4, 6, <http://monthlymagazine.com/cms/upload/magazine/137-en.pdf>.

12 Imad Salamey, *The Government and Politics of Lebanon* 83 (2014).

13 *Id.* at 84.

14 *Id.* at 25.

15 *Id.* at 27.

16 *Id.* at 29.

17 *Id.* at 30.

18 *Id.* at 32.

19 *Id.* at 34.

20 *Id.* at 54, 56.

21 *Id.* at 86.

22 *Id.* at 85.

increasingly sectarian lines and incompatible visions of Lebanon's past, present, and future."²³ Due to the history of sectarianism and other political and social challenges, it is in the best interest of the Lebanese people to have access to information regarding an important sector as energy, which EITI provides.

3.1. Separation of powers

An overview of the governmental system in Lebanon will help explain how it will govern new projects, such as the production of oil and gas in Lebanon.

The principle of "separation of powers" has been adopted in the Lebanese constitution.²⁴ The powers are divided into three branches of government: the legislative branch, which makes the law; the executive branch, which enforces the law; and the judicial branch, which arbitrates and monitors the application of the law and its enforcement. This principle should make the government work properly, in a way that prevents bad governance of new projects and battles corruption.

The legislative branch

The Lebanese constitution declares Lebanon to be a parliamentary republic. The legislative branch is called the National Assembly of Representatives or the Chamber of Deputies, but it is generally called the Parliament. Parliament is the only governmental entity that is elected directly by the public; consequently, it is considered the most powerful and has significant powers relative to other branches of the government.²⁵ Since Taef Agreement in 1992, its members have been composed evenly of Muslims and Christians. Although the parliament has the competence to exercise several roles, such as introducing proposed laws to the Chamber, the Council of Ministers tends to exercise control over this particular role.²⁶ The Council of Ministers' interference extends to the approval of the proposed legislation, even though it must be sent on to other governmental leaders before achieving final approval.²⁷

The executive branch

The executive branch is divided between the President and the Prime Minister.²⁸ Both have the obligation to report to the parliament seeking the approval on most critical issues, such as the formation of government. The Lebanese governmental system thus, fuses the legislative and executive branches together, and there is no strict separation of powers. It means that there may be limited control of executive actions by the elected representatives of people.²⁹

The judicial branch

The Lebanese judicial branch is horizontally divided into three main court systems; each has a hierarchical structure.³⁰ In addition, general prosecutors are considered a judicial party in Al-Niyaba Al-Ammah. The process runs under the Ministry of Justice; so that the judicial system is dominated by both judicial and executive branches.³¹ Despite the fact that the constitution addresses the judicial branch in a way that makes it independent, in reality it did not reach the independence goal, since the executive branch interferes through the Ministry of Justice in the process of appointment of the judges, transferring judges based on sectarianism, and some other roles.

All in all, even though Lebanon is a parliamentary republic and adopts the principle of separation of powers, it is not reaching the aim of this principle. Unfortunately, those principles are affected by other political factors, such as sectarianism. Thus, the whole system is directly influenced by sectarianism, since the separation cannot be accomplished because of the various interests. Therefore, "sectarian

23 Salamey, *supra* note 12, at 88.

24 Mona Alami, Article, *Lebanon must uphold democratic principles*, June 2013.

25 Salamey, *supra* note 12, at 140.

26 *Id.* at 147-51 (concerning the Council of Ministers).

27 *Id.* at 129-30.

28 *Id.* at 141-51.

29 *Id.* at 154-55.

30 *Id.* at 154.

31 *Id.*

confessionalism has delegated explicit and implicitly powers to each institution.”³² The lack of strict separation of powers, sectarian-based appointment, and the lack of independence for the judiciary, coupled with an ineffective prosecutorial system; creates conditions for patronage and corruption. The Lebanese governmental system thus, fuses the legislative, executive and judicial branches together, and there is no strict separation of powers. This is an avenue for corruption and bad governance.

For the purposes of the nascent energy industry, therefore, resorting to external transparency bodies such as EITI can help ameliorate the apparent absence of effective check and balances in governmental systems.

3.2. Corruption in Lebanon

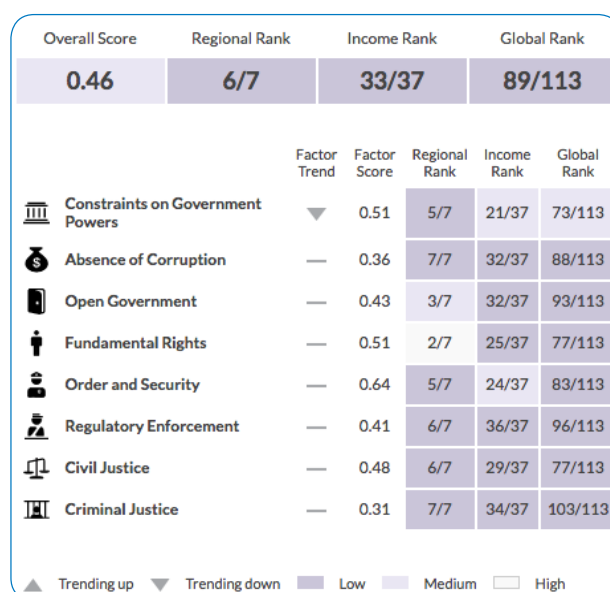
Due to the inefficient governmental system, as previously discussed, the corruption rate in Lebanon is growing.

There are three main types of corruption:

3.2.1. Political corruption

According to Transparency International, citizens of Lebanon ranked their political parties and Parliament amongst the top three most corrupt institutions of the country in 2011.³³ Therefore, political corruption is considered a dominant problem in Lebanon. Another report by Freedom House stated that “Lebanon is not an electoral democracy” because of issues of vote-buying that Lebanese political life suffers from.³⁴ Lebanon lacks regulations for political party financing, providing a space for political corruption to take place. It also lacks proper legislative accountability, which should be strengthened to prevent such corruption. Global Integrity categorized these two areas as “very weak” in 2009.³⁵

The following figure by World Justice Project³⁶ supports the conclusion that corruption is likely to occur in the oil and gas industry:



32 Salamey, *supra* note 12, at 154.

33 *Global Corruption Barometer*, Transparency International (2010/11), <http://www.transparency.org/gcb201011>.

34 *Freedom in the World: Lebanon*, Freedom House (2012), <https://freedomhouse.org/report/freedom-world/2012/lebanon>.

35 *Global Integrity Report 2009: Lebanon*, Global Integrity (2009), <https://www.globalintegrity.org/research/reports/global-integrity-report/global-integrity-report-2009/gir-scorecard-2009-lebanon/>.

36 *Rule of Law Index 2016: Lebanon*, World Justice Project (2016), <http://data.worldjusticeproject.org/#/groups/LBN>.

3.2.2. Bureaucratic corruption

“Inefficient government bureaucracy is the second most important obstacle for doing business in the country, which encourages the use of bribery to speed up or ‘grease’ processes.”³⁷

Bribery is a main concern in Lebanon and has been proven to take place mostly in governmental sectors. A survey conducted by the Lebanese Transparency Association found that bribery is commonly needed to do business in Lebanon: 65% of the companies surveyed faced situations where they had to pay bribes. Also, 47.8% of the same companies had to pay between 1 to 5% of their annual revenues as unofficial payments to public officials.³⁸

Bribery does not just take place in governmental circles. It also takes place among citizens of Lebanon themselves. Another survey has found that more than one-third of the citizens surveyed admitting to having paid a bribe. Mostly with customs, the registry, and permit services. The police and the judiciary were found to be the most frequent bribe takers.³⁹ As a result, companies who have done business in Lebanon have identified corruption as one of the main obstacles for doing business in Lebanon.⁴⁰ This implies Lebanon’s bad business reputation among companies, which could hinder Lebanon’s future with potential investors.

Another survey conducted by the World Bank/IFC Enterprise, proves that Lebanon’s bad reputation goes beyond companies that have worked with Lebanon. It reaches potential companies who have not yet worked with Lebanon and who expect to have to offer gifts to civil servants in order to accomplish work.⁴¹

3.2.3. Grand corruption

A 2009 World Bank/IFC Enterprise survey indicated rampant bribery in the area of government contracts. Nearly all (97.7%) of the companies that participated in the survey had either paid bribes, or been expected to do so, to get such a contract.⁴² Procurement regulations are unsuitable and inconvenient, and the system is non-transparent. There are no rules against conflicts of interest for procurement officials, and no way to check their personal assets. The regulatory weaknesses and lacks, promote corruption and make any investigation of the basis for decisions a practical impossibility.⁴³

There are many sectors in which corruption can be found: political parties, public administration, the police, Parliament, and the judiciary. The examples in the following section highlight the sectors most affected by corruption.

3.2.4. Sectors most affected by corruption

Political parties

Lebanon’s safeguards are highly insufficient; they can assure neither the integrity of political party financing nor the financial support of candidates. According to Transparency International’s Global Corruption Barometer 2011, political parties are considered the most corrupt sector of society.⁴⁴

Public administration

Lebanon’s public administration lacks suitable resources and efficient safeguards against political

37 Sofia Wickberg, Transparency International, *U4 Expert Answer: Overview of corruption and anti-corruption in Lebanon*, U4 Anti-Corruption Resource Centre 3 (15 October 2012).

38 *Id.* (citing a 2010 survey by the Lebanese Transparency Association no longer generally available online).

39 *Id.* (citing *Global Corruption Barometer*, *supra* note 33).

40 World Economic Forum, *The Global Competitiveness Report 2012-2013* at 228, http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2012-13.pdf [hereinafter, *Global Competitiveness Report*].

41 <http://www.enterprisesurveys.org/data/exploreeconomies/2013/lebanon#corruption>, World Bank/IFC. 2013.

42 Wickberg, *supra* note 37, at 3 (citing a World Bank/IFC Enterprise Survey no longer generally available online).

43 *Id.*

44 *Global Corruption Barometer*, *supra* note 33.

interference. It provides inequality in regard to access to basic public services. Its inefficiency can be linked to its unqualified staff and its misuse of available resources. This led the citizens to rank the public administration as the second most corrupt sector in Lebanon.⁴⁵ Surveyed citizens ranked the Customs Authority as the institution requesting the most bribes.⁴⁶

The WEF Global Competitiveness Report has listed inefficient government bureaucracy as the second main obstacle to doing business in Lebanon.⁴⁷ The first obstacle to doing business in Lebanon, as previously mentioned, is bribery. The Lebanese Transparency Association also confirmed the bribery issue by stating that “Bribery is rife within the public administration and is considered a basic norm in the domestic political life.”⁴⁸

Overall, Lebanon is currently threatened by both political instability due to sectarianism and an inefficient governmental system that helps promote corruption. It is therefore recommended, for the purpose of the energy industry, that Lebanon takes the necessary measures to try to lower the possibility of corruption, given that the energy industry business plays a significant role in the economic growth and social development of a country. It is strongly suggested that Lebanon joins a transparency body such as the EITI that requires implementing transparency throughout the process of extracting natural resources.

4. Assessment of Middle-Eastern EITI experiences

The EITI’s presence in the Middle East region was first marked with Yemen’s implementation of the EITI in September 2007. Soon after, in 2009, Iraq followed suit. Falling within the same geopolitical scope, Lebanon, Yemen, and Iraq are all areas of conflict. So that Lebanon may benefit from the lessons learned. This is a brief overview of the experience of Middle Eastern states that have adopted the EITI.

4.1. EITI in Yemen

Yemen is a small oil producer. Unlike many regional oil producers, Yemen relies heavily on foreign oil companies that have production-sharing agreements with the government. Although it is an oil-producing state, Yemen is one of the poorest countries, where 45% of the population lives in poverty.⁴⁹ The reliance on oil in generating revenues for the country shows why EITI is of great significance to Yemen. Adopting high transparency standards in the sector would reduce or hamper chances of embezzlements.

In 2007 Yemen expressed its intent to adopt the EITI.⁵⁰ The government then started taking the suitable measures to achieve EITI candidacy by forming a Multi-Stakeholder Group, “YEITI”, comprised of government representatives, civil-society groups, and representatives of oil companies. Later on the same year, Yemen was announced as a candidate.⁵¹ YEITI published reports from 2005-2007. After the reports were validated, Yemen was announced compliant with the EITI in 2011. Immediately after its validation, however, the state was suspended due to its political instability: the people of Yemen were calling for the resignation of the then Yemeni president Ali Saleh in what was later called the Arab Spring. The suspension was lifted in June 2012 based on the application made by the Government of Yemen, represented by the Minister of Oil and Minerals.⁵²

45 *Global Corruption Barometer*, *supra* note 33.

46 *Id.*

47 *Global Competitiveness Report*, *supra* note 40.

48 Wickberg, *supra* note 37, at 4 (citing a 2011 *National Integrity System Study* by the Lebanese Transparency Association no longer generally available online).

49 Shiyuan Chen & Mark Schreiner, *A Simple Poverty Scorecard for Yemen* (22 May 2009), http://www.simplepovertyscorecard.com/YEM_2005_ENG.pdf.

50 *Yemen*, EITI, <https://eiti.org/yemen> (last visited 3 January 2018) [hereinafter *Yemen*].

51 *Id.*

52 Yemen EIT National Secretariat, *The Annual Report, Yemen Extractive Industries Transparency Initiative* (26 June 2014), https://eiti.org/sites/default/files/documents/2013_yemen-annual_activity_report.pdf [hereinafter *Yemen Annual Report*].

After the suspension was lifted, Yemen EITI was not in a position to meet the EITI requirements as a compliant country during 2012 - mainly the production of the YEITI Second Report - due to various reasons emanating from the crisis in Yemen. The crisis had negative impacts on many projects all over the country, in general, and on Yemen EITI, in particular. Yemen continued to struggle with negative consequences of the political and security crisis that caused further delay in the production the YEITI Second Report⁵³ and caused another suspension to be placed by the EITI International Board on February 2013. The publication of the Second Report in June 2013 caused the suspension of Yemen's EITI membership to be lifted in July 2013. But Yemen was suspended yet again in March 2015 (and still is) because of its unstable and insecure situation.

Effectiveness

In measuring the effectiveness of the implementation of the EITI in Yemen, light must be shed on the participation of civil society as a stakeholder. In the 2011 validation report⁵⁴ issued by Coffey International Development,⁵⁵ the validator noted that although government and civil society stakeholders tend to believe that everyone in the Multi-Stakeholder Group (MSG) has sufficient capacity, civil society members in the MSG are required to increase their understanding of the basics of oil and gas industry exploration and products, as well as major oil and gas revenue streams, for better performance. Therefore, it is important to emphasize that the civil society representatives in Lebanon should have a good grasp of sophisticated and technical concepts in the oil industry.

One of EITI's primary goals is to publicize detailed information on revenues and allocation of costs so the public can engage in debate and dialogue. There was no evidence of community engagement in Yemen, which means that more comprehensive studies must be made to evaluate and assess the emergence of the Yemen EITI. Therefore, if Lebanon joins the EITI, such studies should be conducted.

4.2. EITI in Iraq

Iraq is a major oil exporting state and is a member of the Organization of Petroleum Exporting Countries (OPEC). Iraq has implemented the EITI since 2010 and was declared an EITI compliant country following a successful validation in 2012 by Adam Smith International.⁵⁶ Iraq has submitted five reports covering the period 2007-2014, the latest of which was submitted in March 2016. A new validation and assessment by the EITI under the more comprehensive EITI Standard was scheduled for 2016. Iraq's reports saw progress year after year. The country sometimes went beyond the requirements and provided data on revenue income by company in a disaggregated manner;⁵⁷ other countries followed its example. A sign of the Iraq EITI (IEITI) successful implementation was its expansion in 2013 to include reports on the mining sector.⁵⁸ However, in a report on reforms, the EITI recommended that NOCs reports must be audited in accordance with international accounting standards instead of the outdated accounting standards of Iraqi Board of Supreme Audit. This was to avoid creating "an understanding gap between national oil companies as compared with the industry practice."⁵⁹

53 *Yemen*, *supra* note 50.

54 Yemen Extractive Industries Transparency Initiative, Validation Report (January 2011), https://eiti.org/sites/default/files/migrated_files/Yemen_Final_Validation_Report_EN.pdf.

55 Validation reports are reports issued by an independent validator and reviewed by the EITI board. They are intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is in line with the provisions of the EITI Standard.

56 See Adam Smith International, *Validation Report for IEITI: Final Report*, https://eiti.org/sites/default/files/documents/2012_iraq_validation_report.pdf.

57 See EITI International Secretariat, *The EITI, NOCs & The First Trade; The Extractive Industries Transparency Initiative as a Tool for Improving the Trading Climate with National Oil Companies (NOCs)* (2015), https://eiti.org/sites/default/files/documents/EITI_Brief_NOC_FirstTrade_March2015.pdf.

58 Iraqi Extractive Industries Transparency Initiative (IEITI), *Oil Export, Local Consumption and Field Development: Report 2013* (2015), https://eiti.org/sites/default/files/documents/2013_iraq_eiti_report.pdf [hereinafter *Iraqi Report*].

59 See EITI Reports to Reform (February 2016), page 19, https://eiti.org/sites/default/files/documents/from_reports_to_reforms.pdf.

Iraq has also been considering using the experience it gained through the current EITI process to launch a draft Iraq EITI Law inspired by the existing Petroleum Law.⁶⁰ It is also important to note that the IEITI has been carrying out its work in the midst of sectarian conflicts. This situation suggests that a state can still abide by the EITI standards even in periods of instability.

Lebanon should take the positive experience that the EITI had in Iraq, and should follow their lead in implementing the EITI.

Effectiveness

The IEITI multi-stakeholder council has been the primary leader of the progress being made despite political and security risks in Iraq. In a “historic”⁶¹ move in 2014, the civil society organized the first election of civil society representatives in the IEITI council as a part of a forum. The forum included between 500 and 600 participants from more than 380 civil society organizations, and the participants held constructive discussions. Considering the emergence of ISIS at that time, such a step was indeed historic. This demonstrates a good level of public awareness among Iraqi civil society. Such discussions can lead to the development of questions to pressure the government or companies and hold them accountable.

Even though YEITI and IEITI do not seem ideal, their implementation has been a good start towards fighting what some would call the “resource curse.” Iraq, in particular, is an example that shows that when there is a political will, progress can be made. However, field studies should be conducted in implementing countries, closely measuring and evaluating the experience and its reflections. Future recommendations and reconciliations will be building blocks towards better transparency.

The role of civil society and parliamentarians in acting upon published reports is of great importance.⁶² The community should promote the EITI by holding discussions, forums, and debates to tackle issues and discrepancies in the reports in order for the community to benefit from their publication. The Lebanese Transparency Association, in particular, can play a vital role in promoting the EITI in Lebanon by educating the public. Parliamentarians, on the other hand, should enact legislation according to the needs addressed by the MSG. Overall, although it does not ensure absence of corruption, transparency will lead to better governance.

4.3. Grounds of suspension

A state can be suspended even after being a member of the EITI. However, while some countries are suspended, others are not, even though they might have similar circumstances.

4.3.1. Grounds of the suspension based on the comparison between Yemen and Iraq

The EITI Requirement number 8.6 states the grounds for suspension. Sections (a) and (b) of 8.6 deal directly with the situation of Yemen and Iraq, where the provision states when suspension can happen. In summary, the sections state:

Breaches of the EITI principles and requirements: the EITI will delist or suspend a state if it breaches a significant principle or requirement. This includes cases where states do not comply with the requirement of timely EITI reporting.

Political instability or conflict: the EITI board may decide to suspend countries facing political instability or conflict that reflects badly on the state, in a way that prevents countries from complying with important EITI requirements.

60 *Iraq - EITI Implementation Support Project (2016)*, Washington, DC: World Bank Group. <http://documents.worldbank.org/curated/en/449741473277389006/Iraq-EITI-Implementation-Support-Project>.

61 Pablo Valverde, *Iraq civil society holds historic elections*, EITI (15 December 2014), <https://eiti.org/blog/iraq-civil-society-holds-historic-elections>.

62 See generally *Building Civil Society Organizations (CSO) Capacity to Support the Extractive Industries Transparency Initiative (EITI) in Yemen*, Knowledge Sharing for Results (20 July 2011), <https://www.knowledgesharingfordev.org/story/building-civil-society-organizations-cso-capacity-support-extractive-industries-transparency>.

4.3.2. Comparison between Yemen and Iraq situations

1. The first suspension for Yemen was on the grounds of the political instability; since then, it has been suspended due to the sharp political and security crisis. When the suspension was lifted, Yemen still showed that it is affected badly due to political crisis, and that effect was reflected on the implementation of the EITI.
2. To ensure that Yemen had the chance to show more compliance, its suspension was lifted three times. Yemen still was not able to comply; it was continuously affected by the political circumstances, causing delays in submitting the reports and in meeting other requirements.
3. Iraq might have similar circumstances, but it showed a significant commitment to the EITI requirements. Iraq did not show slowed progress, and it did not show any signs of bad reflections on its implementation of the EITI. Iraq has been declared compliant since 2012, and it has never been suspended for any reason until the present day.

All in all, Iraq and Yemen might have had similar circumstances, but their responses towards those circumstances have been completely different. And that is what matters to the EITI.

Lebanon can take advantage of previous experiences since both countries are Middle Eastern states, and they both offer lessons to consider. To avoid being suspended, Iraq showed noticeable progress in meeting the requirements despite the political conflict. Therefore, Lebanon must follow the guidelines that Iraq has been following and keep reporting effectively regardless of the political status. Lebanon can even establish relations with other international institutions, as a backup management resource to keep reporting effectively, even if Lebanon collapses politically.

5. Benefits of the EITI

The EITI has several benefits that could improve state governance. Lebanon clearly needs this help because its government has changed a lot in the past years. In addition, a lot of cases have shown that Lebanon's government has been unable to maintain transparency. The EITI should help the government maintain a steady flow of transparency, which will then build trust between government, companies, and citizens. Further, the EITI interacts with civil societies and empowers them to have more roles in maintaining transparency since the EITI requires establishing a Multi-Stakeholders Group that consists of members of the government, civil society, and companies.

Additionally, the EITI can help to reduce the risks for the extractive industries companies by improving corporate risk management through showing what is being paid to the government and to the communities. This improves revenue collection and the management process, as well as providing a forum to discuss broader extractive industry governance issues such as physical and process audits, contracts transparency, and sub-national revenues.

Further, the EITI builds trust and dialogue, demonstrates a national commitment to transparency, and promotes accountability, all of which improve business climate. Once it builds trust, Lebanon will become more appealing for investors because a trustworthy reputation for the country means big companies starting businesses in Lebanon. This will help Lebanon in attracting new businesses to the country because everything would be out in the open: it will show all the communities (governmental, society, and companies) where the money is coming from and where it is spent.

To conclude, the EITI is about transparency and Lebanon struggles with corruption, leading scholars to recommend an instrument to reduce corruption: the EITI.^{63 64}

63 Natural Resource Governance Institute, *Publications*, <http://www.resourcegovernance.org/analysis-tools/publications/extractive-industries-transparency-initiative-eiti> (last visited 3 January 2018).

64 Megan Wynne, *How EITI involvement can benefit Corporations*, *Global Policy* (25 February 2016), <http://www.globalpolicyjournal.com/blog/25/02/2016/how-eiti-involvement-can-benefit-corporations>.

5.1. Disadvantages of the EITI

1. Limited mandate (narrow view of transparency)
2. Voluntary rather than mandatory compliance
3. Public and private sector resistance
4. Dependence on strong civil society
5. Green-washing (some groups have accused the EITI of enabling them to perpetuate green-washing)
6. Strategic manipulation.⁶⁵

5.2. An Alternative to EITI?

5.2.1. The Equator Principles⁶⁶

The Equator Principles is a risk management framework adopted by financial institutions to determine, assess, and manage environmental and social risk projects. It is intended to provide a minimum standard for due diligence to support responsible risk decision-making. The Equator Principles was formally launched in Washington, DC on 4 June 2003, and it was based on an existing environmental and social policy framework established by the International Finance Corporation. Since then, the Equator Principles have been revised, and the framework was relaunched on 4 June 2013.

The Equator Principles apply globally to all industry sectors and provide four financial products:

1. Project finance advisory services
2. Project finance
3. Project-related corporate loans
4. Bridge loans

The Equator Principles Financial Institutions (EPFIs) commit to implementing the Equator Principles in their internal environmental and social policies.

These are the 10 principles:

1. Review and categorization
2. Environmental and social assessment
3. Applicable environmental and social standards
4. Environmental and social management system and equator principles action plan
5. Stakeholder engagement
6. Grievance mechanism
7. Independent review
8. Covenants
9. Independent monitoring and reporting
10. Reporting and transparency

As of January 2016, 87 financial institutions in 36 countries have officially adopted the Equator Principles, which covers 70% of the international project finance debt in emerging markets.⁶⁷

⁶⁵ See Benjamin K. Sovacool, *Energy and Ethics: Justice and the Global Energy Challenge*, 2013.

⁶⁶ See Francis N. Botchway, *Natural Resources Investment and Africa's Development*, (ed. 2011).

⁶⁷ *About the Equator Principles*, Equator Principles: environmental and social risk management for projects, <http://www.equator-principles.com/index.php/about>.

5.2.2. The Equator Principles and Lebanon

There are 12 members of the Equator Principles association steering committee. One of them is Citigroup,⁶⁸ which has a bank in Lebanon (Citibank). Another financial institution that applies the equator principles is The Arab African International Bank, which also has a bank in Lebanon.⁶⁹

As of now, the Equator Principles apply principally to financial institutions and products. Indirectly, the framework can apply to the emerging energy industry in Lebanon through the financial involvement of Citigroup and other banks that may be involved in the industry in Lebanon. For the immediate purposes of the energy industry in Lebanon, though, the EITI is a better option and the realistic option.

Conclusion

The EITI is a global standard to promote the open and accountable management of natural resources. Following recent discoveries of gas in Lebanon, there has been a growing interest to ensure that more transparency and good governance are employed in the management of Lebanon's energy reserves and the legal aspects of its investment regime.

Transparency leads to better governance of natural resources. Therefore, this paper advises Lebanon to join the EITI, first, by explaining what the EITI is, its legal nature, and the mechanism of joining; and second, by providing reasons why it is necessary for Lebanon to join the EITI, namely corruption. It also illustrates the advantages of joining the EITI and how it will promote transparency. Further, the paper analyzes previous accessions of other regional countries to EITI, and shows key success factors for Lebanon.

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