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COMPETITION COMMITTEE**

Working Party No. 2 on Competition and Regulation

Competition in Energy Markets – Note by Israel

28 November 2022

This document reproduces a written contribution from Israel submitted for Item 3 of the 74th OECD Working Party 2 meeting on 28 November 2022.

More documents related to this discussion can be found at
www.oecd.org/competition/competition-in-energy-markets.htm

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1. Introduction

1. On November 2022 Working Party No. 2 on Competition and Regulation will discuss *Competition in Energy Markets*. This Contribution will provide a look into the Israeli gas sector and will discuss recent actions taken by the Israel Competition Authority (the "ICA"), with respect to this sector. As shall be discussed below, ICA's actions in this sector, resulted in the introduction of actual competition and led to a significant change in this sector, in Israel.
2. Gas reserves were discovered recently in Israel, allowing Israel to become self-sufficient as well as an exporter of gas. On this backdrop, global events are not expected to have a significant impact on Israel, in this sector. However, looking back, despite of Israel's self-sufficiency, the level of competition in the Israeli gas sector was low due to the holdings structure in the existing reservoirs: One operator holds significant shares in both Leviathan and Tamar, two of Israel's largest reservoirs. This situation raised anticipative concerns.
3. In 2021, the Director General of the ICA (the "Director General") reached a consent decree with the operator of the reservoirs, Noble Energy Mediterranean Ltd ("Noble") (recently acquired by Chevron North Sea Limited) (the "Consent Decree"). As detailed in this contribution, according to the Consent Decree, Noble, which operates the Tamar reservoir and holds 25% of its gas, is obligated to honor the "split marketing" demands of each Tamar holder.¹ The Consent Decree was approved by the Israeli Competition Tribunal (the "Tribunal") on May 2021.
4. The commitments made by Noble in the framework of the Consent Decree, increased competition between Leviathan and Tamar. As a result of these competitive changes, the general public in Israel as well as gas consumers have significantly benefited.
5. This recently reached Consent Decree, the circumstances surrounding this case, as well as its implications on competition in the Israeli gas sector and on the public, will be discussed in this contribution.

2. The Israeli Natural Gas Sector prior to the Consent Decree

6. Until recently, Israel was a net importer of fossil fuels, importing almost all of its oil and natural gas needs. Oil exploration has continued in Israel since the discovery of the first well in 1947, and today imported oil meets over 99% of the domestic oil demand. However, recent discoveries were made offshore: natural gas reserves. These have transformed Israel from being a net importer to a self-sufficient and an exporter of natural gas.

¹AT 55428-03-03 The Competition Authority v. Noble Energy Mediterranean Ltd (Nevo, 27.5.21).

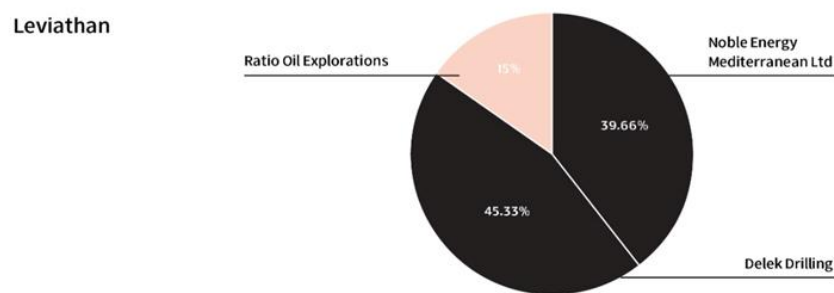
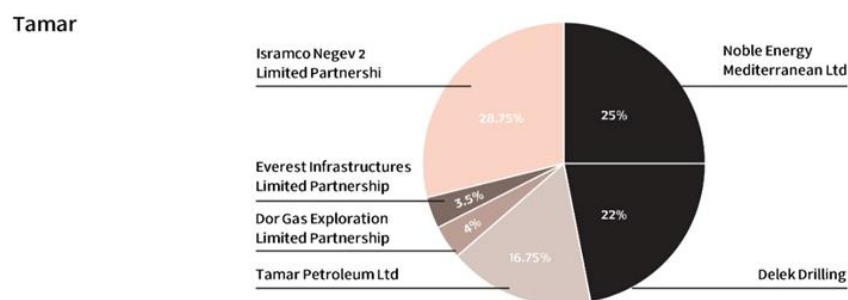
7. The first gas reservoir that was discovered recently was **Tamar**.² Gas discovery in Tamar was announced in 2009. The Tamar field is estimated to contain some 340 BCM of recoverable gas reserves. The field began commercial production of gas on March 2013. The holders of Tamar at that time were Isramco Negev 2 Limited Partnership (28.75%), Delek Drilling LP ("Delek") (22%)³, Tamar Petroleum Ltd. (16.75%), Dor Gas Exploration Limited Partnership (4%), Everest Infrastructures Limited Partnership (3.5%) and Noble (25%). Noble was (and still is) Tamar's operator.

8. During the following year, a second gas reservoir was discovered – **Leviathan**. The largest discovery made so far in the Israeli economic water. The Leviathan field is estimated to contain some 500 BCM of recoverable gas reserves. The reservoir began commercial production of gas on December 2019. The holders of Leviathan are Delek (45.33%), Ratio Oil Explorations (15%), and Noble (39.66%). Noble was (and still is) Leviathan's operator.

² In the past, there was another gas reservoir in Israel - the Tethys Sea, which stopped producing gas in 2014.

³ Recently, Delek sold its share of Tamar to Mubadala, pursuant to Government Resolution n. 467 "Framework for increasing the quantity of natural gas produced from the Tamar natural gas field and rapid development of the Leviathan, Karish and Tanin natural gas fields and others" which required it to do so due to its ownership of Leviathan as well. Delek also changed its name recently to "NewMed Energy".

Figure 1. Natural gas reserves holders' shares



9. In 2012 and 2013 **Karish and Tanin** were discovered. They are estimated to contain some 100 BCM of recoverable gas reserves. Energean PLC holds 100% of the Karish and Tanin fields and operates them. Only recently the fields began commercial production of gas.

10. The amount of recoverable gas reserves offshore Israel is estimated to be approximately 900 BCM, which can provide Israel with a substantial portion of its energy needs. In addition to being consumed locally, natural gas is exported to neighboring countries.

11. Prior to the Consent Decree, Tamar holders were allowed to market their gas jointly. The joint marketing, was approved by the Director General in 2007 before gas was found in the reservoir. Moreover, the joint venture agreement did not determine the marketing mechanism.

12. Leviathan holders were also allowed to market their gas jointly. This restrictive joint venture was exempted from the application of the Economic Competition Law 5748-1988 (the "Law") according to Article 52⁴ thereto, as was decided in the framework of Government Resolution n. 467 on the "Framework for increasing the quantity of natural gas produced from the Tamar natural gas field and rapid development of the Leviathan, Karish and Tanin natural gas fields and others". This resolution, together with

⁴ The Prime Minister, in his role as Minister of the Economy, exercised the authority vested in him pursuant to Article 52.

resolution n. 1465 are known as "the Gas Framework", which was implemented with the purpose of promoting development of discovered fields; and to create a business friendly environment for new investors in the gas sector.

13. Due to the structure of holdings in the existing reservoirs, competition in the natural gas market in Israel was not sufficient: One operator held significant shares in both Leviathan and Tamar and could influence commercial negotiation with clients from both reservoirs as well as controls the physical gas supply systems.

3. Events leading to the Consent Decree

14. Going back to 2012, when the Tamar gas field was the only operating field supplying natural gas in Israel, the Israel Electric Corporation ("ICE") signed an agreement with Tamar for a period of 17 years (with an option to partially renegotiate the price in 2021). The prices in this agreement have constantly risen and in 2021 were substantially higher than the prices in the Israeli market at that time.

15. In April 2019, The ICE released a tender in which Leviathan and Tamar submitted an identical offer. The IEC chose Leviathan to supply its additional natural gas needs above the needs of the agreement with Tamar (the "Leviathan Agreement").

16. In October 2020, the majority holders of Tamar⁵, excluding Nobel (the operator), closed an agreement to sell gas to the IEC at a lower price than the Levitan Agreement. This agreement, was designed to retrieve for Tamar the volume of gas it had lost to Leviathan (the "Tamar 2020 Agreement"). Since Noble owned about (and still owns) 25% of the Tamar reservoir and around 40% of the Leviathan reservoir, it preferred that the purchase by IEC be in accordance with the Leviathan Agreement (at higher prices than those agreed with Tamar majority shareholders). Moreover, Nobel is the operator of the Tamar reservoir and is responsible for the flow of gas and its supply to the customer. The majority shareholders in Tamar and the IEC claimed that Noble refused to allow gas flow in accordance with Tamar 2020 agreement.

4. The Consent Decree

17. After receiving complaints, the ICA began investigating whether Nobel's behavior constituted a refusal to deal and an abuse of its monopoly position. During the investigation of the claims and before a hearing was held, Noble contacted the ICA and requested a consent decree be reached. According to the Consent Decree, Noble committed to acting according to the independent requirements of each of the holders of Tamar (or part of them) to sell gas from the reservoir without requiring the consent of other holders (in the past, this - the split marketing - was impossible).

18. In order to meet this commitment, Tamar's holders signed a Gas Balancing Agreement. The Gas Balancing Agreement specifies a settling mechanism between the holders on a periodic (daily, weekly and annual) basis and allowed the separation of gas marketing.

⁵ Isramco Negev 2 Limited Partnership (28.75%), Tamar Petroleum Ltd (16.75%), Dor Gas Exploration Limited Partnership (4%) and Everest Infrastructures Limited. Partnership (3.5%) (Together, these companies own a majority (53%) of Tamar) (the "majority shareholders").

19. The commitments made by Nobel, along with the Gas Balancing Agreement cleared the way for split marketing. This, restrains Noble's power to prefer deals from Leviathan due to its conflict of interests, and enables competition between Tamar and Leviathan. Each Tamar holder is now able to make a competing offer for its own gas in the reservoir and moreover, customers are able to choose among several competing offers.

20. Even though the Tamar partnership has the option to sell the gas jointly, the very *possibility* of selling separately has a competitive edge. In fact, the non-Noble holders of Tamar can sell gas from Tamar based on their interest, and Noble is unable to stop them. Likewise, the Leviathan partnership is making decisions based on its interest in selling gas from Leviathan, and cannot influence Tamar. Clearly, the holders of a gas reservoir may offer a lower price to a customer if it is worth them a while, and they will not accept a deal that is not ideal for them because of Nobel's interests. The Consent Decree should allow Tamar's holders to compete directly with Leviathan, despite Nobel's cross-holding.

21. In the long term, this combination of actions resulted in a significant improvement in the competitive structure of the gas market and it allows actual competition between reservoirs.

5. Looking Forward

22. Although there is a significant amount of natural gas available in Israel, due to the structure of holdings in the existing reservoirs, the competition in the gas market in Israel was not sufficient. The ICA led to a significant change in the gas market and introduced actual competition. Indeed, we can already witness individual negotiations by the owners of the Tamar reservoir that impose competitive pressure on Nobel. In direct consequence, this action will result in lower gas prices for gas consumers, as well as lower electricity prices for the public.

23. Moreover, this is just the beginning of the change in the Israeli gas sector, which paves the way for the possibility of split marketing from the other existing reservoirs in Israel and future ones. Customers will thus benefit from increased competition, which will further reduce prices.