

Does Dr. Gilo of Israel's Antitrust Authority Understand What's at Stake with the Country's Energy Future?



Leviathan gas development platform offshore Israel

Source: Globes Israel Business

Yesterday, *Al Arabiya* in an [article](#), cited Egyptian Oil Minister's comments in the midst of the country's worst energy crisis, suggesting that "Egypt is open to importing gas from Israel ... another sign that it may lean on its neighbor to help tackle its energy troubles."

Al Arabiya noted:

Oil Minister Sharif Ismail said gas imports from Israel were a possibility, when asked in an interview by the state-owned *Al Mussawar* magazine.

"Anything can happen. Whatever achieves the best interests of Egypt, of the Egyptian economy and the role of Egypt in the region. That will determine the decision to import gas from Israel," he said.

Companies are already negotiating to bring Israeli gas to Egypt, but any deal will hinge on approval from Cairo.

What is ironic here is that Israel used to import gas from Egypt's Sinai through a pipeline often blown up by Muslim Brotherhood terrorists. As of April 2013 the start up flow

from the offshore Tamar gas field in Israel's Exclusive Economic Zone would provide secure energy independence for its electrical and commercial power needs. The 7.9 trillion cubic feet (TCF) Tamar field was developed by Houston-based Noble Energy, Inc. and Israel's Delek Group, Ltd (the Consortium). The \$8 Billion development of the larger Leviathan gas field with upwards of 21.9 TCF was originally scheduled to come on stream in 2017. That has been effectively stopped by a Consent Decree proposed by the independent Israel Anti-Trust Authority (IAA) headed by Dr. David Gilo. Gilo, is a former member of the Buchmann Law Faculty at Tel Aviv University. He is an expert on anti-trust matters who holds a Doctorate in Legal Science from Harvard Law School. Gilo alleges that the Consortium constitutes a monopoly because it has developed the Tamar and Leviathan gas fields under permits issued by Israel. He contends that the Consortium's ownership of the rights for development constitutes restraint of trade under his legislative mandate and that he is honor bound to break up the Consortium's ownership of both gas fields.



Dr. David Gilo, Israel Antitrust Authority

Source: *Globes* Israel Business

If Gilo has his way, his ruling may disable an energy driven economic future for the Jewish nation. We have written about that glittering prize and the sudden halt in development because of Gilo's demand in both NER article, [Could Israel Lose the Energy Prize in the Eastern Mediterranean?](#) and a recent Iconoclast post, [Could Regulatory Headwinds in Israel Shutdown Offshore Gas Development?](#)

The viewpoint of. Gilo is reflected in both interviews and articles in the *Global Competition Review*. The October 2014 ([GCR](#)) [published](#) an interview with Gilo, noting his consumerist slant:

Since being named director general of IAA in 2011, David Gilo has had the formidable task of leading the authority's enforcement program. A former academic, **Gilo**

has surprised many in the community by his active and sometimes radical approach to his mandate. Speaking to Katy Oglethorpe, he explains why Israel's unique economic and political situation makes extra antitrust attention a necessity, and how the IAA can provide the answer to the high cost of living that plagues its country's consumers.

In our NER [article](#), Noble's Chairman issued an immediate news release on December 23, 2014 blasting the IAA Consent Decree:

Charles D. Davidson, Noble Energy's Chairman, commented, "The actions of the Anti-trust Authority are another disturbing example of the uncertain regulatory environment in Israel. Specifically, this is a matter that we believed was resolved some time ago and follows on recent assurances from the Anti-trust Authority that approval was forthcoming. We believe this is a harmful precedent for Israel to set and we will vigorously defend our rights relating to our assets."

Edouard Cukierman, French- Israeli financier was [harshly critical](#) of Gilo's ruling:

The bureaucrats and politicians who come along with populist ideas need to understand that it takes two to tango. No international investor will put a cent into oil and gas as long there is uncertainty in the industry. We are freezing the growth of the State of Israel's economy for many years ahead because of this wretched decision. Noble Energy has announced a freeze on investment that could have contributed 2% to the economy's growth rate and yielded huge amounts in tax it's all frozen.

[...]

Who will pay the price of Israel making a mockery of itself before the international investment community? The public will pay it.

Notwithstanding these criticisms, Gilo at an IAA conference this week indicated his determination to proceed with restructuring the original deal. His determination was noted in a report by *Globes, Israel Business*, [Antitrust regulator wants to restructure gas sector](#):

In the natural gas sector, subject to the hearing, we're aiming to change the market structure in order to generate genuine competition between the reservoirs in the natural gas market," Gilo stated. "The anchor for this is our allegation of an agreement in restraint of trade that caused the monopoly, about which there will be a hearing with the parties. We aren't intervening against the monopoly just because it's a monopoly. We're intervening against the monopoly because of the allegation that the monopoly was obtained through an alleged agreement in restraint of trade made by the parties.

Gilo's obdurate determination to nix the original compromise deal has lead to a crisis amidst the snap election campaign for a new Knesset on March 17th. Notwithstanding, the Netanyahu government has weighed in by scheduling discussions in Israel with the Consortium. *Globes* reported this emergency development in an article yesterday, [Treasury seeks solution to gas monopoly impasse](#):

The Ministry of Finance has summoned Israel's gas and oil exploration and production companies – [Avner Oil and Gas LP](#) (TASE: AVNR.L), [Noble Energy Inc.](#) (NYSE: NBL) – that hold licenses for the country's large reservoirs, to a meeting next week. The meeting will be an attempt to find a solution regarding their holdings in the Leviathan and Tamar gas fields, following Israel Antitrust Commissioner David Gilo's decision to break up the gas monopoly. The companies will meet with Ministry of Finance Budgets Chief Amir Levi and National Economic Council head Eugene Kandel.

Gilo is showing his underlying ignorance of the economic structure of the international gas markets. Given the global natural gas oligopoly, dividing ownership of Israel's offshore gas fields will not enhance their competitive position. Thus Dr. Gilo's application of the Israel Antitrust Authority legislative mandate will diminish Israel's global competitive position, quite the opposite of his intent.