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Regional cooperation to enhance FDI in the development of offshore resources*

by

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Geopolitical aspirations and regional maritime claims could, if not resolved or managed properly, disincentivize or even hinder FDI in the exploration and development of offshore resources. For instance, due to maritime disputes between Vietnam and China, BP has abandoned its plans for exploration in Vietnam, where Repsol has stopped its operations.¹ In the Eastern Mediterranean—even though the countries aim to provide a stable legal environment centering on the protection of investors (e.g., through bilateral investment treaties)—country-specific regulatory limitations and geopolitical challenges do not allow them to reach their full potential. Countries in the Eastern Mediterranean have themselves acknowledged the benefits of regional cooperation in the hydrocarbon sector, which is encouraged by international oil companies (IOCs), the EU and the US. In this respect, initiatives for regional collaboration have been taken, such as trilateral energy dialogues (Cyprus-Egypt-Greece, Cyprus-Israel-Greece, Cyprus-Greece-Jordan, Cyprus-Greece-Lebanon) and cross-boundary energy infrastructure projects, such as the EastMed pipeline, labeled as a EU project of common interest.² Thus, despite divergent risk assessments and energy strategies, states have recognized the need and expressed the will for cooperation to attract FDI and to strengthen political ties between the participants in such initiatives.

In furtherance of these initiatives, we suggest the establishment of a “Scientific Forum,” comprised of both the countries and the IOCs operating in the region, that would encourage regional cooperation, through multilateral dialogue on all facets of the exploration and development of hydrocarbons and contribute to the gradual formation of a regional business enabling environment. The inspiration for the Forum is drawn from the Arctic Economic Council (AEC), an informal scientific policy-shaping body that enhances circumpolar business collaboration and market connection among eight Arctic countries, including the US and Russia, through scientific research and encourages sustainable development in the Arctic.³ The establishment of the Scientific Forum could result from a declaration and not through a treaty.⁴

The Forum would function through working groups composed of government officials, IOCs' executives, academics, economists, sociologists, and experts from the region and other regions with more industry experience. Through scientific research and economic, legal and political studies, these working groups would advise toward enhancing cooperation among the members. They would produce recommendations on specific issues, which could be tested through consultations with NGOs and, in general, the civil societies of the region's countries, prior to them being finalized. The working groups would inquire into the possibilities for the members to share energy infrastructure, and they would identify sources of financing.⁵ They would also conduct research on tailor-made best regulatory practices to enhance the countries' regulatory attractiveness. They would furthermore advise the governments on the sustainable development of the resources and suggest strategies to promote and attract investment in renewable energy sources. They would enable data and expertise exchanges among countries and IOCs, encourage a focus on cross-border environmental damages, and thus enhance the coordination among countries in responding to environmental crises. The collaboration of stakeholders with divergent interests could lead to creative solutions to regional issues, e.g., a common set of recommendations to establish joint development zones for straddling fields in maritime areas for which boundaries have not yet been delimited between neighboring countries.

There is no reason why an institution similar to the AEC should not be established elsewhere, particularly in the Eastern Mediterranean. The key to its success rests on the fact that the region's countries share the same goal: they all work toward attracting the IOCs and thus lowering the risk for investors. Even though the Forum would not enact legislation, this soft law approach could result in countries being more inclined to agree to recommendations that, while reflecting the lowest common denominator, would also serve as the acceptable standard for both governments and IOCs. Those recommendations would still have to become part of the relevant domestic legal systems. However, governments and oppositions would have to be mindful that the common rules acceptable to IOCs and implemented by their neighbors would make their countries less FDI-competitive should they take a different approach.

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¹ [Tom Bergin and Aizhu Chen, "UPDATE 2-BP halts Vietnam exploration plan due China dispute," *Reuters*, June 13, 2007;](#) [Jose Elias Rodriguez, "Repsol says drilling suspended on Vietnam oil block disputed by China," *Reuters*, August 2, 2017.](#)

² [European Commission, "Eastern Mediterranean natural gas pipeline – Pre-FEED Studies," January 2016.](#)

³ See, <https://www.arctic-council.org/index.php/en/our-work2/8-news-and-events/195-aec-2>; <http://arcticeconomiccouncil.com/> and Paula Kankaanpää and Oran R. Young, “The effectiveness of the Arctic Council,” *Polar Research*, vol. 31 (2012).

⁴ Timo Koivurova, “Increasing relevance of treaties: the case of the Arctic,” *AJIL Unbound*, vol. 108 (2014), pp. 52-56.

⁵ See, e.g., Miroslav Kukobat, “Integrated infrastructure planning,” *Regional Cooperation Council Newsletter*, 5/2010 (2010).

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