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USAID ENERGY POLICY PROGRAM

MONTHLY REPORT MARCH 2015

LEGAL ADVISORY SUPPORT FOR
LNG PROCUREMENT

April 2015

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LEGAL ADVISORY SUPPORT FOR LNG PROCUREMENT

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MEMORANDUM

To:	Akbar Yusuf, Masood Bhatti, Jim Hicks, Tahawar Hussain, AEAI	Date:	10 April 2015
From:	Heike Trischmann, WFW	Our Ref:	55389845v1
Cc:	Andrew Baird, WFW		

Monthly Report - March 2015

Watson, Farley & Williams LLP (“**WFW**”) has been engaged as international legal counsel by Advanced Engineering Associates International, Inc. (“**AEAI**”) under Subcontract No. EPP-C1-SC-008 (dated 26 July 2014), Delivery Order No. EPP-C1-DO-001 (25 July 2014) and Task Order-2 (effective 01 January 2015) to advise various stakeholders in, and the Government of (together the “**Client**”), the Islamic Republic of Pakistan (“**Pakistan**”) on, negotiate on their behalf and help them finalise, as applicable, predominantly the following:

- (1) all outstanding conditions subsequent under the LNG Services Agreement (the “**LSA**”) dated 30 April 2014 between Engro Elengy Terminal (Private) Limited (“**EETPL**” or “**Operator**”) and Sui Southern Gas Company Limited (“**SSGC**” or “**Customer**”), with particular focus on the direct agreements and option agreements required under clauses 4.1(e) and 4.1(f) of the LSA;
- (2) LNG supply agreement(s) for LNG importation into Pakistan under the LSA regime and the necessary tender documentation to satisfy regulatory requirements in Pakistan.

To enable WFW to fully perform these tasks, WFW subcontracted Vellani & Vellani Advocates and Legal Consultants (“**V&V**”) in Karachi, Pakistan, to resolve questions involving Pakistan law and the Pakistan regulatory regime.

WFW’s and V&V’s work on this assignment started on 30 July. We have previously reported on the progress we made on the above referred to tasks in the period from August to December 2014. In this memo, we set out below the work we have carried out during the month of January 2015 and key issues we faced and continue to face:

1. Conditions subsequent under the LSA

- (a) Our work on closing the LSA continues. We conducted a number of calls on smaller points and discussed them directly with SSGC’s internal and external legal counsel, Liaquat Merchant Associates (“**LMA**”), Andalib Alavi on behalf of EETPL/Engro, and in case of the PQA direct agreement (without the lenders) with White & Case on behalf of Engro’s lenders, as well as a number of calls within our WFW team, to discuss and negotiate, where applicable, outstanding issues on the:
 - (i) FSRU charter direct agreement;
 - (ii) Individual tailor made direct agreements based on the generic direct agreement;
 - (iii) FSRU option agreement; and

- (iv) fixed assets option agreement.
- (b) Since our last monthly report for February 2015, we have progressed to execution of most of the agreements and prepared further redrafts of the PQA direct agreement. Please see latest copies and drafts of the PQA direct agreement attached. Please see the salient points of progress on these documents below.

- (i) As previously reported, the generic direct agreement was finalised between EETPL, SSGC and the lenders during the Karachi meetings in December 2014.

As also previously reported, the generic direct agreement required (i) tailoring for each underlying agreement; i.e. the implementation agreement and lease with the Port Qasim Authority (the “PQA”), the services agreement with Engro Vopak Terminal Limited (“EVTL”), the pipeline construction contract with AU Engineering (“AUE”) and the EPC contract with China Harbour Engineering Company Limited (“CHEC”), and (ii) sending of each tailored direct agreement to the relevant counterparty for their comments.

Regarding the PQA direct agreement, as previously reported, because the PQA refused to enter into a direct agreement with the lenders but agreed to sign a direct agreement with SSGC, WFW prepared a “simplified” PQA direct agreement with all references to the lenders removed (what WFW calls a “customer only” direct agreement) that was approved by the lenders and SSGC and sent to the PQA. When WFW called the PQA (their external lawyer, Mr Isani) for a status report on the document, WFW was informed that Mr Isani had prepared a new direct agreement between EETPL, SSGC and the PQA based on WFW’s previous version but further simplified. WFW together with EETPL and SSGC reviewed this draft, found it suitable and suggested a small number of largely immaterial but what the stakeholders consider being necessary amendments. WFW sent this to the PQA on 30 March and it reached Mr Isani on 31 March 2015. **We are currently awaiting the PQA’s comments.**

With respect to the EVTL direct agreement, this has now been signed by all the parties. This was previously provided. **This is now closed.**

As also previously reported, in January Engro asked us to reconsider the requirement for direct agreements for both of the construction contracts with AUE and CHEC, wanting us to drop the requirement for such an agreement altogether. WFW considered the matter together with the lenders and prepared a waiver letter for SSGC in respect of a requirement for full direct agreements and a letter for each construction company agreeing to assign the benefit under their contracts should EETPL default under the project within the warranty period applicable under each construction contract. Each of AUE and CHEC signed their respective letter and the waiver letter was approved for signature by SSGC’s board of directors on 17 March 2015. **We don’t know whether this waiver letter has in fact been signed and issued by SSGC to ETPL. We have asked SSGC for an update.**

- (ii) The FSRU charter direct agreement has now been signed by all parties. Please see the attached copy, duly signed and dated. **This is now closed.**
 - (iii) The FSRU option agreement has now been signed by all parties. Please see the attached copy, duly signed and dated. **This is now closed.**
 - (iv) The fixed assets option agreement has now been signed by all parties. This was previously provided. **This is now closed.**
- (c) The Long-stop Date as defined in the LSA was extended by an extension and amendment agreement on 21 October 2014 and two side letters to it. The Long-stop Date in relation

to the transfer of permits to EETPL (see clause 4.1(g) of the LSA) and in relation to the direct and option agreements was extended to 31 December 2014. In February two further extension agreements were signed by the parties, Amendment Agreement No. 2 extending the Long-stop Date to 31 January 2015 and Amendment Agreement No. 3 extending it further to 28 February 2015. Amendment Agreement No. 3 states that the parties may extend the Long-stop Date only one more time. In their board meeting on 17 March 2015 SSGC's board of directors approved the further extension of the Long-stop Date to 30 March 2015. We have not seen a copy of this extension agreement but have asked SSGC for a status report.

- (d) As previously reported, in relation to the obligation for SSGC to obtain the necessary rights of way (ROW) EETPL requires to enter into the project agreements and to operate the infrastructure, from an analysis undertaken by LMA on behalf of SSGC, it transpired that the underlying lease agreement with one of the land owners, Pakistan Steel Mills, did not allow for the rights to the land on which part of the 24" pipeline was constructed under the lease to be subleased to EETPL. Apparently, SSGC has asked EETPL for a waiver of the requirement to furnish a lease agreement that allows for the land rights to be subleased/ a sub-lease of these rights. We have not seen a copy of the letter of request but have asked SSGC for a status report.
- (e) Clause 4.1(g) of the LSA requires all permits and NOCs which the Operator (EETPL) requires to be able to provide to the Customer (SSGC) the services under the LSA to be in the name of the Operator. As a result of an all-party meeting at MP&NR on 13 March 2015 and various discussions with the relevant MP&NR officials on the matter, a letter was sent by MP&NR to SSGC to raise its concern directly with the MP&NR but to our knowledge no comments or concerns were raised within the relevant deadline and we consider this matter closed. An NOC to the transfer of the transmission licence to EETPL was issued by OGRA on 17 March 2015. This matter is now also closed. We attach copies of the relevant documents.
- (f) We previously reported that in the early days of October we finalised and submitted to SSGC and their Pakistan lawyers, LMA, our due diligence report in respect of the Project Documents (as defined in the LSA). As previously reported, we resent this report to SSGC's LNG and legal teams and never received any comments on it. We therefore consider this closed.
- (g) We prepared and amended a note to SSGC's board of directors and a supporting table of documents as well as a memorandum on outstanding and closed issues in support of the board paper. This was considered and discussed in SSGC's board meeting on 17 March 2015. Please see attached the last version of the documents we sent on 16 March 2015.
- (h) As you can imagine, we wrote a large number of Emails in support of the above and conducted a small number of conference calls both from our London office as well as when we were travelling in Doha.

2. LNG supply agreements and tender procedures

Our work in respect of this task during January 2015 involved the following:

- (a) As previously reported, the last draft of the LNG Sales and Purchase Agreement ("LNG SPA") between Pakistan State Oil ("PSO") and Qatargas was received from Qatargas on 22 February 2015 in response to the Doha meeting of 17 February 2015 that had Qatargas' response in relation to the price reopener and the credit provisions still outstanding. A further redraft to that was prepared by WFW and sent by PSO to Qatargas on 9 March 2015 and meetings were held in Doha on 11 and 12 March 2015. A preliminary redraft of the LNG SPA was sent by QG to PSO on 12 March which was finalised and sent to PSO on 19 March. PSO sent a redraft to QG on 30 March 2015. That redraft was followed by meetings on 1 and 2 April in Doha where certain amended provisions were discussed during the meeting on 2 April and the relevant redraft sent to

WFW on 2 April as part of the meetings. WFW reviewed the LNG SPA in its entirety and made certain changes to that draft. The PSO redraft was sent to QG on 10 April 2015. Please see the latest draft attached. We have also helped to further the tripartite agreement between SNGPL, SSGC and PSO regarding the onward sale of the LNG once delivered to PSO under DES terms in Port Qasim. WFW's help was required to clarify points in relation to the LSA and the QG SPA where the parts had run in to a deadlock. We attach the latest copy we have on that. We also started to draft the summary description of the main provisions of the LNG SPA for the ECC approval. We attach a copy of that draft which will be finalised once the LNG SPA is finalised.

- (b) In March 2015 we also finalised the arrangements regarding the commissioning cargo. The commissioning cargo was sold under an FOB MSPA between QG and PSO and picked up from Ras Laffan by the FSRU on its way from Dubai to Karachi. We do not have a signed copy of the MSPA or the confirmation notice but we attach the last draft the parties exchanged before signing. We also helped finalising the charter arrangements of the FSRU by PSO from EETPL. We attach the last draft of that also, as we do not have a copy of the signed version. Due to the commissioning arrangements being different from those anticipated under the LSA, certain provisions of the LSA needed to be waived/disapplied in respect of the commissioning cargo and WFW drafted a short agreement to this respect. We attach a copy of the signed LSA waiver agreement. We also helped finalise the arrangements with the third party buyer of the commissioning LNG/RLNG for the purposes of and to ensure that the relevant arrangements did not conflict with the provisions of the LSA or the LNG SPA. We attach a draft of the relevant agreement; however, we were subsequently informed that for tax reasons the structure of this arrangement had to change again and a binding term sheet was entered into instead. We were not involved in drafting or finalising this term sheet but we attach a copy of the signed version.
- (c) As previously reported, the Master Sale Purchase Agreement ("**MSPA**") was finalised amongst all the Pakistani stakeholders in January 2015. However, we reconsidered certain provisions in response to discussions we had with Qatargas on the LNG SPA and sent a redraft to PSO on 8 April 2015 for their consideration, possibly also the consideration of SSGC and SNGPL. We attach the relevant Email and redraft.
- (d) We had various calls with FGE to move these matters forward and update each other on progress.
- (e) We wrote a large number of Emails in support of the above.

