

GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND JUSTICE

No.439/2022-Law-I

Islamabad, the 13th July, 2022

OFFICE MEMORANDUM

Subject: EFFECTIVE CHANGE OF CONTROL FROM M/S ENI PAKISTAN LIMITED (COMPANIES) TO PRIME INTERNATIONAL OIL AND GAS COMPANY LIMITED.

The undersigned is directed to refer to the Ministry of Energy (Petroleum Division)'s, O.M.No.Expl-7(3) (ENI Change Control)/2021, dated 30-06-2022 on the above subject and to state that it is norm in petroleum exploration and production business that companies holding petroleum rights dispose of their shares pursuant to their business planning etc. Also, the respective petroleum exploration and production rules do not provide for mandatory lock-in period for holding interest in the companies for a certain time period. The only requirement from Government perspective is that the buyer of interest should be technically and financially sound to undertake petroleum exploration and production business and has undertaken to all obligations and liabilities of the seller(s) in regards to the petroleum right. This aspects rests with the Petroleum Division and Finance Division. Subject to the aforesaid, the Summary is endorsed by this Division from legal perspective.

2. As for the undertaking by the holding company of the Buyer, the referring Division has asked following query:

“The Finance Division & Ministry of Law and Justice are requested to advise specifically with regard to adequacy of the undertaking to cover the obligations of the [Buyer] i.e. work commitments and other financial obligations including but not limited to decommissioning cost to be incurred upon the expiry of Licenses and Leases. Ministry of Law and Justice is also requested to advise, whether a copy of the undertaking provided is sufficient or original undertaking may be required for Government record.”

3. It appears from the letter No. KK-258-TF-2022 dated 7 June 2022 of the Hub Power Holdings Limited (“**HPHL**”), shareholder of the Buyer that Director General Petroleum Concessions (DGPC) had vide letter No. Expl-7(3) (Eni Control Change)/2021 dated 1 April 2022 requested HPHL to submit an undertaking on judicial stamp paper in favour of the Buyer. The aforesaid referred letter of DGPC is not available with this Ministry to check the contents. However, from the material available to this Ministry on the file it appears that the undertaking was required to secure payment obligations of Buyer in respect of (a) completion of transaction, and (b) future obligations of the Buyers in case of funding shortfalls. It is not clear to this Ministry as to why DGPC asked for this undertaking? Is Buyer not willing to provide guarantee by its parent to the Government? or DGPC decided to obtain undertaking as additional security for financial obligations? How DGPC envisaged to protect Government's interest by way of HPHL's undertaking in favour of the Buyer? At best, undertaking could have been in favour of the Government and not the Buyer. In

case of HPHL undertaking in favour of the Government, the original undertaking would then be with the Government.

4. In regard to adequacy of undertaking for future financial obligations, subject to confirmation and/or comments by the Finance Division, this Ministry is of the view that the existing language of the undertaking does not provide for commitment (b) mentioned in ibid para. Justification of HPHL in respect of compliance of the Companies Act, 2017 is not of relevance for the purpose of undertaking. DGPC has not required to actually make any investments in the Buyer. If there is any funding shortfall with the Buyer, it shall obviously look for funding options including those briefly mentioned in HPHL's above referred letter. It is in the interest of the Government that if no viable option is available with the Buyer, the shareholder(s) **must** undertake to fund the shortfall. Government would have option to enforce the undertaking against HPHL if HPHL fails to meet the funding shortfall of the Buyer.

5. In view of the aforesaid paras, the referring Division is advised that the undertaking provided by HUBCO (HPHL) is not adequate in respect of covering future operation of petroleum exploration licenses, development and production leases etc, decommissioning cost to be incurred upon the expiry of licenses and leases. Also, as mentioned in para 3, in case the undertaking is issued in favour of the Government, the Government shall keep the original undertaking in its record.

Ministry of Energy,
(Petroleum Division),
(Mr. Inam Ullah),
Deputy Director (Concessions),
Islamabad.


13/7/2022
(TANWEER SAEED BARLAS)
Section Officer