DELAY IN RESOLVING PENDING ISSUES: TWO KEY INVESTORS' GROUPS GIVE GOVT DEADLINE

ISLAMABAD: The two key foreign investors' groups of KE have given one-month deadline to Islamabad for withdrawal of all litigation, clearance of outstanding payments and signing of three long-awaited pacts or face litigation at international forum.

The deadline was given on January 5, 2023 through a legal notice to Attorney General for Pakistan. Copies of notice have also been sent to Prime Minister, Shehbaz Sharif, Minister for Power and Minister for Law and Justice.

The legal notice has been served by Al-Jomaih Power Limited and Denham Investments Limited, upon the Islamic Republic of Pakistan under the Agreement on Promotion, Protection and Guarantee of Investments amongst the Member States of the Organization of the Islamic Conference (OIC Investment Agreement).

The OIC Investment Treaty was signed on June 5, 1981 and is in force since February 1988. The signatories of the OIC Investment Agreement include, inter alia, Pakistan, Kuwait and the Kingdom of Saudi Arabia, all of whom have also ratified the Agreement.

The Claimant are subsidiaries of Al-Jomaih Group of Saudi Arabia and National Industrial Group (NIG) of Kuwait and are investors in Pakistan within the terms of Article- 1 of the OIC Investment Treaty. Accordingly, the Claimant enjoys and reserves all the rights and privileges accorded to an investor under the OIC Investment Treaty. As per Article 17 of the OIC Investment Treaty, the Claimant has the right to initiate proceedings under the said Treaty if the matters raised through the notice are not addressed.

According to the legal notice, brief facts underlying this Notice are as follows: (i) in November 2005, Karachi Electric Supply Corporation (KESC) was privatised and 73% of its stake was transferred to a consortium led by KES Power. Subsequently in 2014, KESC was renamed as KE; (ii) KE entered into a number of agreements with the Government of Pakistan and entities owned and/ or controlled by the GoP. These include, among others, the following agreements: (a) Implementation Agreement (IA) of November 14, 2005 with the GoP at the time of privatisation which was subsequently amended through the Amendment Agreement. Within the Implementation Agreement subsequently amended through the Amendment Agreement, various commitments and guarantees were made by the GoP including but not limited to energy dues of Karachi Water & Sewerage Board (KWSB) being a strategic customer, timely processing and release of KE's Tariff Differential Subsidy (TDS) as per stipulated timelines; (b) a Gas Supply Agreement (GSA) of November 9, 1978 with Sui Southern Gas Company (SSGC) for supply of 10 MMCFD each at two of KE's power generation plants. With the expansion of KE's generation fleet through addition of new power plants, gas allocation to KE was subsequently increased in a phase-wise manner to 276 MMCFD by the Economic Coordination Committee (ECC) of the Cabinet and the gas supply trend also reaffirms that by way of action of the parties to the GSA, the 1978 GSA was no longer in field. Efforts were made by KE to execute a fresh GSA with SSGC but remained inconclusive; (c) a PPA of January 26 2010 with National Transmission and Dispatch Company (NTDC) (collectively the Concession Agreements).

The legal notice says, agreements and the underlying promises made by the GoP created the legitimate expectations for success of the project. Without these promises and expectations, the Claimant would not have participated in the privatisation process. The GoP has been continuously and consistently in violation of the promises made through and contained in the agreements.

The claimants are of the view that as per the Agreements, the GoP and/ or its entities are required to make certain payments, such as the Tariff Differential Subsidy, energy dues of strategic customers to KE. The payments enable KE to purchase fuel, produce electricity, sell it to consumers and then pay fuel supplying entities and other organizations such as the SSGC and NTDC (the "Receiving Entities" – i.e., the GoP or related entities to whom KE owes money). The GoP and/or its entities have not made complete payments as promised under the agreements, and consequently, as of June 2022, the GoP and/ or its entities owe KE Rs 346 billion.

The claimant has claimed that the delays in and the partial nature of TDS and other payments, in turn, causes delays in payment by KE to the GoP controlled entities. While KE is not allowed to charge any punitive late payment charge for the delayed TDS and other payments, the receiving Entities claim punitive late payment charge from KE. As of June 2022, the Receiving Entities claim Rs 573 billion of which PKR 246 billion is the late payment charge. "Since privatisation, KES Power has invested over $4 billion in KE and the power value chain in the region serviced by KE. Most regrettably; however, the investment has been frustrated owing to the failure of the GoP to honour its contractual commitments," said Sheikh Abdulaziz H Al-Jomaih, in the letter notice.

The claimant maintains that KE has been engaged in earnest with the GoP and its entities including the Receiving Entities to find resolution of the matter. Regrettably, the GoP and its entities including the Receiving Entities have acted to only delay settlement of the outstanding issues. As a consequence of the GoP's actions, the Claimant has not received a single cent in dividend since KE's privatisation and the investment has been frustrated. GoP's actions including, among others, failure to honour its contractual commitments amount to expropriation of the investment.

The Claimant approached the courts in Pakistan for redressal of its grievances but the Courts and the judicial system have failed to resolve the issue and/ or to even provide any kind of relief. The consistent failure by the GoP to honour its contractual commitments and persistent denial of justice to the Claimants has made the situation untenable.

R 18-1-2023

GOVT URGED TO RESTORE REGULAR LCS OPENING WITH AVAILABILITY OF FOREIGN EXCHANGE

The President SAARC Chamber of Commerce and Industry Iftikhar Ali Malik Tuesday urged the government for immediate restoration of the opening of letters of credit with the availability of foreign exchange for the import of raw materials putting industries into gear.

Chairing an emergent meeting of the "Founder" group of Lahore Chamber of Commerce and Industry (LCCI) to discuss the prevailing economic scenario, he said a total of 13 senior former presidents of Lahore chamber, Mian Muhammad Ashraf, Sheikh Muhammad Asif, Tariq Hameed, Mian Muzaffar Ali, Bashir Bakhsh, Mian Misbah Ur Rehman, Shahzad Ali Malik, Almas Hyder, Farooq Iftikhar, Shahid Hassan Sheikh, Abdul Basit and Tariq Misbah were invited to share their points of view and suggest viable solutions for prompt economic revival. Iftikhar said Prime Minister Shehbaz Sharif and Federal Finance Minister Senator Ishaq Dar both belong to founder group and as former presidents of Lahore chamber, they are rightly expected to understand and steer the economy out of financial crunch. Iftikhar Ali Malik who is Chairman founder group said what we need urgently is opening of LC with availability of foreign exchange for meeting the requirements of industrial sector. He said all participants were of the view that a number of foreign countries have recently promised billions of dollars to Pakistan for supporting relief measures and early rehabilitation of flood victims which they said will help stable the foreign reserves. He said so in the light of foreign support assurance,necessary instructions be issued to State Bank of Pakistan to provide solace to hard hit industrial sector otherwise poor workers will also continue to suffer. He said all former presidents collectively made an impassioned appeal to PM and Federal Finance Minister to intervene and bail out industrial sector from looming crisis which he added is backbone of national economy.He hoped that their humbled genuine request will bear fruit.

Times 18-1-2023

Q1 OF JULY-SEPT 2022-23: NEPRA ALLOWS DISCOS TO RECOVER RS41.938BN UNDER QTA MECHANISM

ISLAMABAD: The National Electric Power Regulatory Authority (Nepra) has allowed power distribution companies (Discos) to recover Rs 41.938 billion from their consumers for the first quarter of (July-September) 2022-23 under the QTA mechanism. The impact on IESCO consumers will be of Rs 1.97 per unit, LESCO Rs 2.76 per unit, GEPCO Rs 4.06 per unit, FESCO Rs 3.26 per unit, MEPCO Rs 4.80 per unit, PESCO Rs 1.25 per unit, HESCO Rs 1.77 per unit, QESCO Rs 4.09 per unit, SEPCO Rs 2.31 per unit, and TESCO Rs 3.62 per unit which will be recovered from the consumers in a period of two months i.e. February and March 2023.

The authority, in consistency with its earlier decision in the matter, has also decided not to include the amount of legal charges requested for the 1st Quarter amounting to Rs 4.2 million and also the amount of Rs 545.55 million requested for the previous quarters on the same account, while working out the instant quarterly adjustments.

The CPPA-G in its data has included amount of Rs 262 million on account of capacity charges of KAPCO. The authority noted that KAPCO's PPA was amended by CPPA-G, wherein, it has been agreed that plant will be operated without payment of capacity charges from July 2021 onward and only energy charges would be paid. Upon inquiry from CPPA-G regarding the inclusion of capacity charges of Rs 262 million of KAPCO, it has been submitted that claimed cost is on account of truing up of costs pertaining to previous periods as per the PPA.

The CPPA-G, although provided some detail in this regard, however, the authority has decided to provisionally not consider the claimed amount of KAPCO and would consider it in the subsequent quarterly adjustments, once the same is verified. Accordingly, the amount of Rs 262 million has been deducted from the claim of Discos.

In light of discussion, information submitted by the CPPA-G and adjustment requests filed by Discos, the Authority has decided to restrict the amount of quarterly adjustment for the 1st Quarter of FY 2022-23, as requested by Discos on account of variation in capacity charges, variable O&M, Use of System Charges (UoSC), and Market Operator Fee (MOF). However, regarding the FCA impact on T&D losses, since the authority's decision in the matter of monthly FCA for September 2022 was not finalised till the submissions of quarterly adjustment requests by Discos, therefore, it has been worked out based on the approved monthly FCAs. Similarly, for working out the impact of the recovery of fixed cost on incremental sales, the data of incremental units as provided by the CPPA-G has been considered, as few of the Discos did not provide the required information in their adjustment requests.

GOVT MULLING HIKING GAS TARIFFS

ISLAMABAD: Petroleum State Minister Musadik Malik, Tuesday, indicated a possible increase in gas tariffs in the coming days, saying it was "unaffordable" for the present government to maintain the present gas tariff. "Ogra (Oil and Gas Regulatory Authority) recommended increasing the gas prices but this has not been done keeping in view the inflation factor," the state minister told the Senate. Malik said the government is trying not to burden the common man but a non-increase in gas tariff is proving unaffordable for national kitty.

The demand for gas in the last month of December was 1,400 million cubic feet per day (MMCFD), whereas, the supply was only 680 MMCFD, he said.

Presently, 1.238 million applications for new gas connections are pending as the government has imposed a ban on new gas connections due to gas shortage, he added.

Earlier, Senate Chairman Sadiq Sanjrani barred 21 lawmakers from different political parties, whose legislative memberships were suspended by the electoral body a day earlier, from attending the Senate session.

The unusual situation emerged at the start of the Senate's sitting when the Senate chief announced that Secretary Senate Qasim Samad Khan had a "very important announcement" to make. He then gave the floor to the secretary who said that the Election Commission of Pakistan (ECP) on Monday suspended the legislative memberships of 21 lawmakers who did not file their statements of assets and liabilities of the previous financial year 2021-22 with the ECP.

The Senate chief then asked the senators, who did not submit their wealth statements, to leave the house and barred them from attending the house proceedings till they submitted the required wealth statements to the ECP.

On Sanjrani's instructions, some of the suspended senators, who were present on the occasion, left the house. Later on Tuesday, the ECP restored the parliamentary memberships of four of the 21 senators—Rana Mahmoodul Hassan from Pakistan Muslim League Nawaz (PML-N), Ahmed Khan(independent), Anwaarul Haq Kakar (independent) and Saeed Ahmed Hashmi from Balochistan Awami Party (BAP) after they filed their wealth statements with the ECP.

The membership of the remaining 17 senators remained suspended till the filing of this report Tuesday night. They were: Aon Abbas Buppi from Pakistan Tehreek-e-Insaf (PTI), Zarqa Suharwardy Taimur (PTI), Kamran Michael (PML-N), Syed Waqar Mehdi (Pakistan People's Party-PPP), Taj Haider (PPP), Jam Mehtab Hussain Dahar (PPP), Rukhsana Zuberi(PPP), Saifullah Abro (PTI), Shaukat Tarin (PTI), Mohsin Aziz (PTI), Hidayatullah Khan (Awami National Party-ANP), Sania Nishtar (PTI), Azam Swati (PTI), Dost Muhammad Khan (PTI), Abdul Qadir (independent), Abdul Ghafoor Haideri (Jamiat Ulema-e-Islam Fazal) and Manzoor Ahmed Kakar (BAP).

Earlier on Monday, the ECP suspended the legislative memberships of 271 out of a total of 820 legislators from the Senate, as well as, National, Sindh, Khyber-Pakhtunkhwa and Balochistan assemblies, except the Punjab Assembly that stands dissolved currently, for their failure to submit wealth statements of the previous financial year 2021-22.

Five separate notifications issued by Secretary ECP Omar Hamid Khan on Monday suggested that 21 of 100 senators, 136 of 342 members of National Assembly (MNAs), 48 of 168 members of provincial assembly (MPAs) – Sindh, 54 of 145 Khyber-Pakhtunkhwa MPAs and 12 of 65 Balochistan MPAs cease to perform functions as lawmakers.

The suspended legislators include Chairman Public Accounts Committee (PAC) Noor Alam Khan, and federal ministers like Ahsan Iqbal, Khawaja Asif, Naveed Qamar, Sajid Hussain Turi, Tariq Bashir Cheema, and Israr Tareen.

ECC APPROVES IMPORT OF 'OLD' TRACTORS

ISLAMABAD: The Economic Coordination Committee (ECC) of the Cabinet approved import of up to five-year old tractors with a duty reduction allowing for depreciation in value at two per cent per month up to a maximum of 60 per cent.

The ECC meeting presided over by Finance Minister Ishaq Dar was submitted a summary by the Ministry of Commerce regarding the import of agricultural tractors under the Kissan package 2022 and proposed amendments in Import Policy Order, 2022, to reduce the cost of tractors and the ECC allowed amendment in the relevant clause of the IPO 2022 for import of up to five years old tractors. With regard to duty reduction for the import of second-hand tractors, the ECC allowed depreciation in value at two percent per month up to a maximum of 60 percent.

The ECC considered the proposals of the SBP and allowed equity investment of US$ 4.9 million by Fauji Foundation for the acquisition of 2,750,000 shares (18.64 per cent stake) of Daharki Power Holdings Limited and granted waiver/ exemption to Fauji Foundation from the policy enumerated in Foreign Exchange Manual being incorporated as a trust under Charitable Endowment Act 1980.

The ECC was told that the government had allowed Fauji Foundation to make an equity investment abroad of US$ 12 million in "Daharki Power Holdings Limited" in 2008. Fauji Foundation, the Asian Development Bank, and Daharki Power Holdings Limited, BVI entered into an agreement in 2008, which provided the ADB the right to exercise put option in respect 2,750,000 shares subscribed by it.

The ECC, after discussion, approved the Ministry of Energy (Petroleum Division)'s summary for the assignment of 34 percent working interest of M/s Pakistan Oilfields Limited (POL) and six percent of M/s Attock Oil Company Limited (AOC) to M/s PolskieGornictwo Naftowei Gazowinictwo S.A (Polish Oil and Gas Company) (POGC) in Khirthar South Block (Sindh).

The Ministry of Energy (Power Division) submitted another summary for amendments in the Standardized Security Package Documents (SPDs) for the large solar PV projects, based on the market response to the earlier modifications by the competent forum and in order to ensure the viability of the project.

The ECC approved the proposals that indexation of tariff in the SPDs be on an annual basis and payment mechanism for settlement of invoices as per Framework Guidelines.

The ECC considered and approved the proposal of the Petroleum Division for the enhancement of oil and gas production from Tal Block (KPK) proposing the sale of gas from Mamikhel South discovery to third party in accordance with the Petroleum Concessions Agreement (PCA) after it was informed that the State-Owned Entities (SOEs) have around 70 per cent working interest in TAL exploration license. The meeting was informed that this arrangement will be to the benefit of the government in the form of increased dividends and taxes and it will be an opportunity to enhance private sector participation.

PPMA FEARS MEDICINE SHORTAGE IF CURBS ON LCs NOT REMOVED SOON

ISLAMABAD: The Pakistan Pharmaceutical Manufacturers Association (PPMA) has urged the government and the State Bank of Pakistan to reserve at least $800 million per annum for the pharmaceutical industry to enable it to import essential raw materials for manufacturing medicines in order to ensure their availability in the country. This was stated by Kaiser Waheed Sheikh, former chairman PPMA, while talking to Business Recorder here on Tuesday, adding if the government and the SBP didn't take necessary steps in time it would create a serious medicine shortage in the country.

"Pakistan may face a shortage of medicines and medical devices in the coming months as local banks are not opening Letters of Credit (LCs) for the import of medicines' raw materials and medical devices due to the dollar liquidity crunch," he warned. He added that if the country failed to ensure the import of medicine raw materials, the local markets would be flooded with fake medicines and drugs would be sold at high prices in the black market as a result, the patients will suffer. He said that consignments arrived at ports were also not be retired, even the SBP had issued a notification in this connection directing all the banks to facilitate the pharmaceutical industry. He said that despite the clear instructions of the SBP to not create any hurdle for the pharmaceutical industry in the opening of LCs, all local banks were reluctant in opening LCs for the import of Active Pharmaceutical Ingredients (API) due to a shortage of dollars in the country.

"The PPMA has the money to buy medicines' raw material from abroad but the dollar liquidity crunch in the country may result in a shortage of medicines in Pakistan in the weeks and months ahead," he further said.

"Medicine raw materials with most of the pharmaceutical companies have dried up and they are unable to place orders for the raw material for the future. If LCs are not opened soon, it may result in medicine shortages like the shortage of Panadol, which was not available in most parts of the country."

“The Panadol shortage was due to the price issue but now we are facing double jeopardy as on the one hand prices are not being increased while on the other hand, raw material is not being imported due to dollars’ unavailability with the central bank,” Sheikh further said.

The former chairman of the PPMA maintained that Pakistan’s pharmaceutical industry is an import-based industry; it imports pharmaceutical ingredients and as a result of the rupee devaluation, the cost of raw material was constantly on the rise while the cost of production of medicines was increasing due to rising fuel cost, transportation charges, and increased wages.

R 18-1-2023

INVESTORS WRITE TO FTSE COS FOR NEW GROUP TO EASE CORPORATE GOVERNANCE ISSUES - FT

January 18, 2023

Jan 18 (Reuters) - Some of the world's biggest investors have proposed forming a new group, which will include board members of top UK companies, to address stewardship and corporate governance concerns, the Financial Times reported on Wednesday.

The Investor Forum - a nonprofit group that facilitates engagement between UK firms and institutional investors - has written to chairpersons of various FTSE 100 companies for fresh discussions to help settle contentious topics such as executive pay and overboarding ahead of the 2023 AGM season, the report said.

The letter, which was sent on Tuesday and seen by the Financial Times, follows a report by corporate communications advisory firm Tulchan Communications that highlighted a breakdown in the relationship between British boards and shareholders, the report said.

The Investor Forum did not immediately respond to a Reuters request seeking a copy of the letter. Reuters could not immediately verify the contents of the Tulchan report.

Britain's corporate governance regulator said in November that companies there fail to reveal if meetings with shareholders alter their behaviour, such as in setting pay for top executives.

Britain's asset managers too in November had called on company bosses to steer clear of inflation-busting pay rises as the country grapples with a cost-of-living crisis.

https://www.reuters.com/business/investors-write-ftse-cos-new-group-ease-corporate-governance-issues-ft-2023-01-18/