

FI N° 88092

Serapis N° 2016-0848

ENEL GREEN POWER PERU

Finance Contract

between the

European Investment Bank

and

Enel Green Power Perú, S.A.

At Rome, this November 29th 2017

At Luxembourg, this 29th of November 2017

[...]

WHEREAS:

[...]

- (10) The Bank considers that access to information plays an essential role in the reduction of environmental and social risks, including human rights violations, linked to the projects it finances and has therefore established its Transparency policy, the purpose of which is to enhance the accountability of the EIB Group towards its stakeholders.

[...]

NOW THEREFORE it is hereby agreed as follows:

INTERPRETATION AND DEFINITIONS

[...]

(b) Definitions

In this Contract:

[...]

"EIB Environmental and Social Handbook" means the manual that provides an operational translation of the policies and principles contained in the EIB Statement of Environmental and Social Principles and Standards and that is published on the Bank's website at <http://www.eib.org/infocentre/publications/all/environmental-and-social-practices-handbook.htm>.

"EIB Statement of Environmental and Social Principles and Standards" means the statement published on EIB's website¹ that outlines the standards that the Bank requires of the projects that it finances and the responsibilities of the various parties.

[...]

"Environment" means the following, in so far as they affect human health and social well-being:

- (a) fauna and flora;
- (b) soil, water, air, climate and the landscape;
- (c) cultural heritage; and
- (d) the built environment.

"Environmental or Social Approval" means any permit, licence, authorisation, consent or other approval required by an Environmental Law or a Social Law in connection with the construction or operation of the Project.

"Environmental and Social Documents" means:

- (a) the Environmental and Social Impact Assessment Studies for Wayra and Rubi;
- (b) the Non-Technical Summaries for Wayra and Rubi;
- (c) the Environmental and Social Mitigation and Management Plans for Wayra and Rubi;
- (d) the Stakeholder Engagement Plans (*Plan de relacionamiento con los grupos de interés*) for Wayra and Rubi;
- (e) the Integrated Water Management Scheme for Rubi (*Informe Esquema de uso de agua en la Planta Fotovoltaica Rubi*); and
- (f) the Land Acquisition and Resettlement Action Plan for Rubi (*Plan de liberación y adquisición de tierras para la Planta Fotovoltaica Rubi*).

¹ http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf

“Environmental and Social Impact Assessment Study” means the written report resulting from the environmental and social impact assessment (ESIA) process, which identifies and assesses the potential environmental and social impacts associated with the proposed project and recommends measures to avoid, minimise and/or remedy any impacts. This study is subject to public consultation with direct and indirect project stakeholders and is summarised in a Non-Technical Summary.

“Environmental and Social Mitigation and Management Plans” means the environmental and social mitigation and management plans for the Project (including interconnections to the grid: substations and transmission lines), containing *inter alia* the labour, occupational and community health, safety and security standards and measures applicable during the construction and operational phases. For Wayra wind farm, the Environmental and Social Mitigation and Management Plan shall provide a detailed flora and fauna monitoring plan (including a detailed “Birds Monitoring Plan”) for the operational phase.

“Environmental and Social Standards” means:

- (a) Environmental Laws and Social Laws applicable to the Project or the Borrower;
- (b) the EIB Statement of Environmental and Social Principles and Standards;
- (c) the EIB Environmental and Social Standards, as set out in Volume I of the EIB Environmental and Social Handbook; and
- (d) the Environmental and Social Documents.

“Environmental or Social Claim” means any claim, proceeding, formal notice or investigation by any person in respect of the Environment or Social Matters affecting the Project including any breach or alleged breach of any Environmental and Social Standard.

“Environmental Law” means:

- (a) Peru’s national laws and regulations; and
- (b) international treaties and conventions signed and ratified by or otherwise applicable and binding on, Peru.

of which a principal objective is the preservation, protection or improvement of the Environment.

[...] **“Social Law”** means each of:

- (a) any law, rule or regulation applicable in Peru relating to Social Matters;
- (b) any ILO Standards; and
- (c) any United Nations treaty, convention or covenant on human rights signed and ratified by or otherwise applicable and binding on Peru.

“Social Matters” means all, or any of, the following: (i) labour and employment conditions, (ii) occupational health and safety, (iii) protection and empowerment of rights and interests of indigenous peoples, ethnic minorities and vulnerable groups, (iv) cultural heritage (tangible and intangible), (v) public health, safety and security, (vi) involuntary physical resettlement and/or economic displacement and loss of livelihood of persons, and (vii) public participation and stakeholder engagement.

[...]

ARTICLE 1
Credit and Disbursements

[...]

1.04 Conditions of disbursement

1.04A First Tranche

The disbursement of the first Tranche under Article 1.02 is conditional upon receipt by the Bank, in form and substance satisfactory to it, on or before the date falling 7 (seven) Business Days before the Scheduled Disbursement Date, of the following documents or evidence:

[...]

- (i) copy of the final Environmental and Social Documents;

[...]

ARTICLE 6
Borrower undertakings and representations

The undertakings in this Article 6 remain in force from the date of this Contract for so long as any amount is outstanding under this Contract or the Credit is in force.

A. Project undertakings

[...]

6.05 Continuing Project undertakings

The Borrower shall:

[...]

(e) Environment and Social:

- (i) implement and operate the Project in compliance with Environmental and Social Standards; and
- (ii) obtain, maintain and comply with requisite Environmental or Social Approvals for the Project; and

[...]

6.13 General Representations and Warranties

The Borrower represents and warrants to the Bank that:

[...]

- (l) it is in compliance with Article 6.05(e) and to the best of its knowledge and belief (having made due and careful enquiry) no material Environmental or Social Claim has been commenced or is threatened against it;

[...]

ARTICLE 8
Information and Visits

8.01 Information concerning the Project

The Borrower shall:

(a) deliver to the Bank:

[...]

(ii) any such information or further document concerning the financing, procurement, implementation, operation of the Project and related environmental or social matters as the Bank may reasonably require within a reasonable time; and

[...]

(c) promptly inform the Bank of:

(i) any action or protest initiated or any objection raised by any third party or any genuine complaint received by the Borrower or any Environmental or Social Claim that is to its knowledge commenced, pending or threatened against it; and

[...]

(iii) any non-compliance by it with any Environmental and Social Standard;

(iv) any suspension, revocation or modification of any Environmental or Social Approval;

[...]

A.2 Information Duties under Article 8.01(a)

1. Dispatch of information: designation of the person responsible

[...]

- Environmental and Social:

- a. Description of any major issue with impact on the environment or social matters.
- b. Have there been any severe accidents?
- c. Report on environmental and social monitoring activities carried out during implementation (construction and operation) as foreseen by the ESMMP and/or permits, as applicable. In particular, report in line with the flora and fauna monitoring plan (including a detailed "Birds Monitoring Plan") for the operational phase.
- d. Have there been any environmental or social complaints/grievances? Explain the status and how they were/are being resolved (if applicable).
- e. Any outstanding environmental or social risks or activities.

[...]

Project Progress Report (solar PV plant):

[...]

- Environmental and Social:

- a. Description of any major issue with impact on the environment or social matters.
- b. Have there been any severe accidents?
- c. Report on environmental and social monitoring activities carried out during implementation (construction and operation) as foreseen by the ESMMP, Land Acquisition and/or permits, as applicable.
- d. Have there been any environmental or social complaints/grievances? Explain the status and how they were/are being resolved (if applicable).
- e. Any outstanding environmental or social risks or activities.

[...]

5. Environmental and social impacts

- a. Description of any major issue with impact on the environment or social matters.
- b. Have there been any severe accidents?
- c. Report on environmental and social monitoring activities carried out during implementation (construction and operation) as foreseen by the ESMPs, Land Acquisition Plan and/or permits, as applicable.
- d. Have there been any environmental or social complaints/grievances? Explain the status and how they were/are being resolved (if applicable).
- e. Any outstanding environmental or social risks or activities.

[...]
