

Response to the request for review #1 for “Refurbishment of Enguri Hydro Power Plant, Georgia” CDM project

The DOE is requested to clarify how it validated the start date of the project activity as 21/12/2005, considering that;

a) normal rehabilitation work resumed at the project site within 5 weeks of a preliminary notice of termination being sent by the contractor to the project participant (PP), which indicates that project implementation never ceased on the ground.

Definition of the start date for the “Refurbishment of Enguri Hydro Power Plant, Georgia” project is governed by the Executive Board document EB41, Paragraph 67 (particularly, by the underlined text), which states:

“In light of the above definition, the start date shall be considered to be the date on which the project participant has committed to expenditures related to the implementation or related to the construction of the project activity. This, for example, can be the date on which contracts have been signed for equipment or construction/operation services required for the project activity. Minor pre-project expenses, e.g. the contracting of services /payment of fees for feasibility studies or preliminary surveys, should not be considered in the determination of the start date as they do not necessarily indicate the commencement of implementation of the project. For those project activities which do not require construction or significant preproject implementation (e.g. light bulb replacement) the start date is to be considered the date when real action occurs. In the context of the above definition, pre-project planning is not considered “real action”.

*The Board further noted that there may be circumstances in which an investment decision is taken and the project activity implementation is subsequently ceased. If such project activities are restarted due to consideration of the benefits of the CDM the cessation of project implementation must be demonstrated by means of credible evidence **such as** cancellation of contracts or revocation of government permits. Any investment analysis used to demonstrate additionality shall comply with the requirements of paragraph 7 of the “Guidance on the assessment of investment analysis” (version 02).”*

With relation to the underlined text above, a project activity that had ceased but was subsequently restarted needs to demonstrate two things to be eligible for CDM:

1. That the project activity implementation had actually ceased (two example documents are suggested as credible evidence in Para 67 above). Other credible evidence is clearly permissible.
2. That the project was restarted due to consideration of the benefits of CDM.

If these two elements are demonstrated, then the ‘start date’ becomes the date at which project implementation activity was re-started. Consequently, the following revision has been made to the start date of the proposed CDM project:

The previous PDD version assumed a start date of 21 December 2005, as on that date the project proponent committed to pursue CDM revenue as a way to restart and complete the implementation of the rehabilitation project, after work on site had fully ceased on 12 December 2005. However, following the requests for review, this date was changed to **13**

January 2006, the date at which the contractor came back to the site and resumed the implementation of the rehabilitation work.

The following provides detailed explanations for the choice of the start date, and evidence is referenced within the chronology of events presented below.

1. Regarding cessation of project activity implementation:

- In 2001, Engurhesi signed a Loan Agreement with EBRD to complete reconstruction of Unit 3 (which was out of operation since 1993) and to perform general maintenance on Units 1 and 2 (not technical upgrade).¹ For technical reasons, Unit 1 was later replaced by Unit 4. The contract with Voith Siemens (key contractor) was signed in November 2002, and works on Unit 3 started in 2003².
- Following financial difficulties experienced by Engurhesi (the CDM project proponent), Engurhesi failed to meet its payment obligations to the contractors (Voith Siemens and sub-contractors).
- The security situation in the region where the project is located deteriorated significantly at this period and the security of the contractors' staff could no longer be guaranteed.

As a result, works ceased on the ground and the contractor's staff left the site on 12 December 2005. The contractor accepted to resume work only after both issues had been addressed.

2. Regarding restart of project activity implementation due to consideration of the benefits of CDM:

- The project proponent faced severe financial difficulties, mainly due to the drastic devaluation of the Dollar vis-à-vis the Euro (by about 30%); but also because of increased costs incurred as a result of scope expansion for the rehabilitation work as well as delays in the work implementation schedule.
- The importance of CDM is documented in the Board Meeting of 21 December 2005 during which a Board resolution was passed to initiate discussions with EBRD concerning CDM registration of the Enguri HPP rehabilitation project. CDM was identified as a key source of additional funding to help with the rehabilitation project.
- As confirmed by EBRD (the prime project financier)³:
 - a. the project proponent was in default of its loan with EBRD and was also in breach of the agreement with Voith Siemens (key contractor);
 - b. consideration of the benefits of CDM (carbon finance) was very important in EBRD's decision to recommence finance for the Enguri rehabilitation project. In the loan agreement, EBRD included carbon finance as one of the sources of revenue to be used in priority to repay the EBRD loan.

PLEASE NOTE THAT THIS EBRD LETTER IS CONFIDENTIAL AND IS NOT TO BE DISTRIBUTED BEYOND THE VALIDATION TEAM OR EXECUTIVE BOARD MEMBERS WITHOUT THE PRIOR WRITTEN PERMISSION OF EBRD.

¹ Note: the scope of work to be conducted under the EBRD loan differs drastically from the CDM project activity. First of all, two more units (Units 4 and 5) are included in the CDM project. More importantly, the CDM scope of work on Units 1 and 2 goes beyond what was planned under the EBRD loan. Instead of only carrying out general maintenance on the existing equipment of Units 1 and 2, the CDM project activity proposes to fully upgrade the installations, following the example of Unit 3.

² As written on the invoice from Voith Siemens "Effective date, Start of Unit 3 – 20.08.2003",

³ The EBRD letter included in the package of key supporting documents.

3. Regarding the start date of the proposed CDM project activity:

- As mentioned above, on 21 December 2005 the project proponent decided to pursue CDM finance as a way to restart and complete the implementation of the rehabilitation project, after work on site had fully ceased on 12 December 2005.
- From that date, steps were undertaken to secure funding for completion of the entire rehabilitation programme that is covered by the proposed CDM project scope, i.e. Unit 2, Unit 1, Unit 4, and Unit 5. These steps included: starting negotiations with the EBRD to seek additional funding (with the explicitly stated intention to seek CDM finance), applying to a domestic bank, ProCredit Bank, for an emergency loan; and implementing security measures.
- Consequently, the contractor came back to the site on 13 January 2006 and restarted rehabilitation works on the ground.
- After months of negotiations, the Second Novation Agreement was signed in 2006 for an additional USD 10 million. Its purpose was to finance the deficit for completion of rehabilitation works on Units 2 and 1, and for undertaking the refurbishment works for the other units, with an explicit requirement to seek CDM financing to serve as a key source of revenue to meet the loan repayment obligations. In the meantime, EBRD had appointed ICF Consulting Ltd as a CDM consultant for this project (contract signed on 12 September 2006), demonstrating the firm commitment to support Engurhesi in its pursuit of carbon finance.

The above arguments are substantiated in the following section, where a clear order of events leading to the cessation of rehabilitation works, and their subsequent restart due to consideration of the CDM benefits, is described together with references to the supporting documents.

1. **21 December 2001:** Engurhesi signed a loan agreement with the European Bank for Reconstruction and Development (EBRD), amounting to USD 14.8 million, to "rebuild" Unit 3 (which had been completely dismantled and was out of operation since 1993), replace outdated auxiliary and control equipment (transformers, etc.), and perform general maintenance only on two more units. The EBRD loan was to be disbursed in USD and at that time (with exchange rate: 1\$=1.116€), the loan amount was expected to be sufficient to cover all project costs of the three units (Unit 3, Unit 1 and Unit 2). It is important to note that the loan was provided as a lump sum and that the loan agreement did not specify the detailed scope of works and how funds would be allocated.
2. **25 November 2002:** Engurhesi Ltd. signed a contract with Voith Siemens (key contractor) to undertake works on Unit 3, Unit 2, and Unit 1. This is the **starting date** of the rehabilitation programme (not the CDM project).
3. **2003:** works started on Unit 3.
4. **2004-2005:** the project experienced financial difficulties (as proved by the Quarterly Reports)⁴. In addition, funds available through the 2001 EBRD loan reduced considerably

⁴ Q1 2004 - 18th Quarterly Project Report; Q2 2004 - 19th Quarterly Project Report; and Q3 2004 - 20th Quarterly Project Report; Q1 2005 - 22nd Quarterly Project Report; Q2 2005 - 23rd Quarterly Project Report; Q3 2005 - 24th Quarterly Project Report – as mentioned in the PDD page 28-29. For example: Q3 2005 - 24th Quarterly Project Report, page 17 – 18, an exemplary covenant in breach include: *"Selected End-users and the distribution company to pay into the Revenue Collection Account to be used in priority for the payments into the Debt Service Account for loan servicing until minimum of 6 months debt service is covered, before the revenues are re-allocated. Covenant is*

because of the devaluation of the US Dollar against the Euro. From 2001 to 2006 the Dollar lost more than 30% of its value compared to the Euro (as described in the PDD, page 20 and 21).). The impact of devaluation was aggravated by the need for additional funding to cover a revised scope of rehabilitation works at the remaining units, which was not initially envisaged, but was identified during works on Unit 3.⁵

5. **01 November 2005:** Voith Siemens sent a letter to Engurhesi (project company) entitled "Notification of Suspension due to late Payments from the Employer". This letter notified Engurhesi of the possible suspension of the contract if the outstanding amount was not covered within 28 days⁶.
6. **03 November 2005:** work was suspended due to the late payment issue⁷. Also, in September and November, strikes took place to protest against the non-payment of salaries (strike of "Sakenergoremonti" Ltd. workers in September and in November)⁸.
7. **19 November 2005:** The employer (Engurhesi Ltd.) planned for the works on Unit 2 to start on 14 December 2005. However, the contractor rejected this date because delays had occurred due to the non-payment of salaries. The contractor decided that a new start date would be discussed at the beginning of 2006 if financial issues had been resolved⁹.
8. **07 December 2005:** Voith Siemens issued a Preliminary Notice on Termination of Contract due to non-payment by the Employer within the allowed timeframe¹⁰.
9. **11 December 2005:** the VSPO (contractor's) car was attacked on the way back from Zugdidi to Saberio (inside Abkhazia). During that incident the security chief Mr. Shish lost his life and several persons in the car were injured. Consequently, on **12 December 2005** works on the ground stopped completely and all Voith Siemens/VSPO personnel left the Enguri site to evacuate to Tbilisi on 12 December 2005 and went back to Germany on 14 December 2005¹¹.
Note: December 12, 2005 is the date when works on the ground ceased. After this date, nothing was happening on site. As such, this date – backed up by referenced documents – is treated as the **cessation date** of rehabilitation works (as required by EB41, Para 67).
10. **20 December 2005:** Engurhesi drew from the remaining funds under the 2001 EBRD loan to cover the outstanding payments to complete Unit 3 and initiate works at Unit 2. Yet, this amount was not enough to complete Unit 2, and undertake refurbishment works on remaining units¹².
11. **21 December 2005:** during the Meeting of the Supervisory Board of "Engurhesi" Ltd, financial issues were discussed and it was agreed that *"additional funding must be requested to complete the rehabilitation program"*. CDM revenues were considered as a

in breach: Although the unified Revenue Collection Account has been set up for transfers from the Distribution Market (GWEM), Engurhesi Ltd (Project Company), as well as the GSE (Borrower), due to low collection of revenues by GWEM which is the sole consumer of power produced by Enguri HPP, are unable to either accumulate or repay the loan principle and interest as set forth in NLA Section 2.02 (d). The EBRD letter included in the package of key supporting documents confirms that the project proponent was in default of its loan with EBRD.

⁵ Documented in Minutes of Meeting of the Supervisory Board of Engurhesi Ltd, 25 December 2005

⁶ Annex 1: Notification of Suspension due to late Payments from the Employer Letter dated 01.11.2005

⁷ Annex 2: Site-Meeting Protocol. CW46 dated 19.11.2005

⁸ Annex 2: Site-Meeting Protocol. CW46 dated 19.11.2005

⁹ Annex 2: Site-Meeting Protocol. CW46 dated 19.11.2005

¹⁰ Annex 3: Preliminary Notice on Termination of Contract due to non-payment by the Employer dated 07.12.2005

¹¹ Annex 4: Status Protocol. CW 47-29 dated 21.12.2005

¹² As shown in the EBRD Loan Drawdown Notice as of 31 December 2005 (Annex 5), only USD 5.95 million were remaining as of the end of 2005 while actual cost of Unit 2 based on Voith-Siemens invoices and payments (Annex 6) totaled USD 7.35 million (exchange rate used as per Annex 5 at the end of 2005: 1 USD=0.832 EUR) . As such, Engurhesi was short of USD 1.4 million to complete Unit 2, let alone Unit 1.

way to “support mitigation of financial deficit for Unit #2 and for remaining units”. At the Board’s Meeting, the project company committed to starting negotiations with EBRD for additional funding, with the explicit intention to seek project registration under the CDM.¹³

Note: From this point onwards, with the decision taken to pursue CDM finance, steps were undertaken to secure additional funding to complete the rehabilitation programme. Also, please note that before that date, no works had started on any of the units covered by the proposed CDM project. This date was originally chosen as the starting date of the CDM project. However, following the requests for review, the date on which work restarted on site (13 January 2006) was chosen instead.

12. **22 December 2005:** the project company applied to a domestic bank, ProCredit Bank, for a small value emergency loan to cover the immediate financing gap ((i) ongoing operation costs and (ii) ongoing rehabilitation works)¹⁴. This money was intended as a bridging loan (at high interest rate) whilst more substantial EBRD funds and carbon finance were being negotiated.
13. **21 December 2005 – 29 December 2006:** Engurhesi negotiated with the EBRD for additional funding, which led to the signing of the Second Novation Loan on 29 December 2006 (Document #25 mentioned in the PDD, page 35). In the meantime, EBRD contracted ICF to provide CDM assistance to Engurhesi for the Enguri project (thus, proving the importance of CDM revenues in discussions with EBRD). In the signed Second Novation Loan, paragraph (e) in Section 3.01 requires Engurhesi to: “*undertake and/or procure that all necessary steps are taken to enable the Project to qualify for the Clean Development Mechanism and ensure that the funds raised through the CDM are used in priority for meeting the Borrower’s and the Novation Project Company’s obligations regarding the Project*”.
14. In the meantime, on **13 January 2006**, Voith Siemens staff returned to the project site and restarted works¹⁵, thanks to both the settlement of outstanding payments and the implementation of security measures (Annex 7).

Note: This date is taken as the new **CDM start date** in compliance with EB 41, Paragraph 67, since the project activity restarted after the firm commitment of the project proponent to seek CDM finance.

In addition, the letter by Voith Siemens (Annex 7) confirms that the works at the site stopped at this period because of financial and security issues. It also demonstrates that rehabilitation resumed only after both issues had been addressed.¹⁶

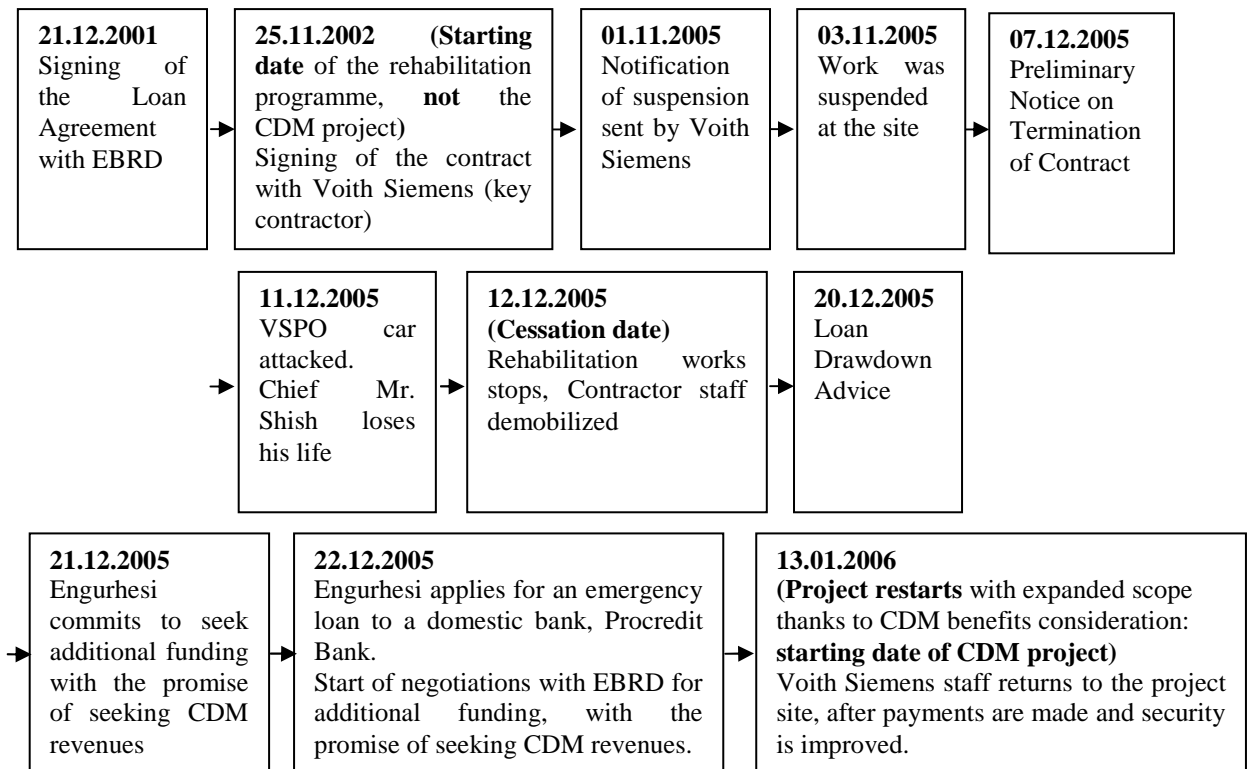
For a clearer view of the event order please find the Figure below, which represents the timeline of works cessation – restart.

¹³ Annex 8: Minutes of Meeting #19 Of the Supervisory Board of “Engurhesi” Ltd

¹⁴ Annex 11: Letter to ProCredit Bank of 22 Dec 2005, explaining reasons for seeking additional funds,.

¹⁵ Annex 9: Letter from Thomas Poniwass from Voith Siemens to Malkhaz Tskvitishvili dated 10/01/2006

¹⁶ Annex 7: Letter from Voith Siemens



All the above-presented information together with supporting documentation demonstrates that works on site were fully stopped from 12 December 2005, because of financial and security issues; and that work resumed only after both issues were addressed. Funding constraints for rehabilitating units covered by the CDM project scope were overcome thanks to Engurhesi's commitment to seek CDM benefits in order to repay its loan obligations to EBRD.

This information was also added to the Validation Report rev.05 section 3.7.1. p.16-19.

The above timeline and rationale have been added to the PDD (version 07, dated 31 January 2012, section B.5, pages 27-37).

The DOE may also justify how it validated the statement in the validation report (page 17) that project work had already ceased owing to severe financial problems faced by the project activity for over 24 months.

The project had experienced financial difficulties, as noted in the Quarterly Reports prepared by Engurhesi since 2004 and over 2005¹⁷. In addition, funds available through the 2001 EBRD loan

¹⁷ Q1 2004 - 18th Quarterly Project Report; Q2 2004 - 19th Quarterly Project Report; and Q3 2004 - 20th Quarterly Project Report; Q1 2005 - 22nd Quarterly Project Report; Q2 2005 - 23rd Quarterly Project Report; Q3 2005 - 24th Quarterly Project Report – as mentioned in the PDD page 25. For example: Q3 2005 - 24th Quarterly Project Report, page 17 – 18, an exemplary covenant in breach include: "Selected End-users and the distribution company to pay into the Revenue Collection Account to be used in priority for the payments into the Debt Service Account for loan servicing until minimum of 6 months debt service is covered, before the revenues are re-allocated. Covenant is in breach: Although the unified Revenue Collection Account has been set up for transfers from the Distribution Market (GWEM), Engurhesi Ltd (Project Company), as well as the GSE (Borrower), due to low collection of revenues by GWEM which is the sole consumer of power produced by Enguri HPP, are unable to either accumulate or repay the loan principle and interest as set forth in NLA Section 2.02 (d). The EBRD letter included in the package of key supporting documents confirms that the project proponent was in default of its loan with EBRD

reduced considerably because of the devaluation of the US Dollar against the Euro (the loan was denominated in US Dollar, whilst the payments for the supply contracts were denominated in Euro). The severe US Dollar devaluation between the loan agreement date and the supplier invoice payment dates meant there were insufficient loan funds to complete the work. As demonstrated in the timeline presented above, the financial troubles of Engurhesi, aggravated by the security issues, led to the cessation of works on site on 12 December 2005. Supporting evidence has been added to the timeline above.

Once Engurhesi started securing the necessary funding (as mentioned in the Board's Meeting of 21 December 2005) and implementing security measures (Annex 7), the rehabilitation works on Unit 2 could start.

The start-up date for the rehabilitation of Unit 2 was validated by checking the Letter from Thomas Poniwass from Voith Siemens to Malkhaz Tskvitishvili (Manager of the Enguri HPP Rehabilitation project) dated 10/01/2006¹⁸: *"With reference to the security assessment took place from January 4th to 6th, 2006, we just got the results from our security department. Resulting of this internal report we herewith inform you, that we got the permission to restart the project activities at the site.*

...Our staff will arrive as follows (arrival in Tbilisi):

(...) Arrival to site: 13.01.2006"

And Operational Acceptance Certificate dated 03/03/2008 related to Unit 2 (i.e. end date)¹⁹.

"Pursuant to GC 25.3 (Operational Acceptance) of the General Conditions of the Contract entered into between yourselves and the Employer dated 25th of November 2002 relating to the Rehabilitation Unit #3, 1 and 2 and Auxiliaries systems installed at Enguri HPP, we hereby notify you that the functional guarantees of the following parts of the Facilities were satisfactorily attained on the date specified below.

Description of the Facilities or part thereof:

1. Description of the Facilities: Unit 2

- *Replacement of generator consisting of:*
 - *Stator core and stator winding*
 - *Stator bar cooling system (pure water system)*
 - *Re-insulation of the rotor poles*
 - *Air coolers*
- *Voltage regulator and excitation system*
- *Low voltage equipment and accessories*
- *Unit control and protection system*
- *Rehabilitation of speed governor*
- *Rehabilitation of spherical valve operating system*
- *Fire fighting system*
- *Rehabilitation of braking/jacking system*

*Date of operational acceptance: **March 3rd, 2008.***

¹⁸ Annex 9: Letter from Thomas Poniwass from Voith Siemens to Malkhaz Tskvitishvili dated 10/01/2006

¹⁹ Annex 10: Operational Acceptance Certificate related to Unit #2

This information was also added to the Validation Report rev.05 section 3.7.1. p.19-20.

b) the Board resolution dated 21/12/2005 only considered CDM benefits for units 1 and 2 (PDD page 30), and not units 4 and 5.

In doing so, the DOE may refer to the definition of start date as clarified by the Board in EB 41 for project activities that are restarted due to consideration of the benefits of the CDM, the cessation of project implementation must be demonstrated by means of credible evidence such as cancellation of contracts or revocation of government permits. Please refer to VVM paragraph 104 (a).

First of all, it is important to note that the project “Refurbishment of Enguri Hydro Power Plant, Georgia” is a staged project, which means that all units are rehabilitated one by one (but never simultaneously). This is a key reason for applying for and obtaining funding for the various units in different stages as rehabilitation progresses. This approach has also been necessary to ensure the appropriate management of funding and guarantee that enough funds were available for each unit, given the financial and implementation issues experienced with Unit 3. The contract with Voith Siemens (key contractor) assumes that rehabilitation works on a subsequent unit start only upon completion of works on a previous unit.

The Minutes of Meeting of the Supervisory Board of “Engurhesi” Ltd. on 21 December 2005 clearly reports on the status of rehabilitation of Unit 2, describes the costs and lack of funding, and mentions that CDM will be necessary to mitigate the financial deficit of Unit 2 and the **remaining units**: *“Considering the additional output potential from the rehabilitated units, the Ministry of Energy of Georgia shall be solicited to request registration of the Enguri project in the UNFCCC under the Kyoto protocol. Potential additional sources of revenues through Carbon Credits will support mitigation of financing deficit **for Unit #2 and for remaining units.**”*²⁰

In other words, while the Board indicates financial details for Unit 2, attention should be paid to the fact that the Board mentions CDM for the whole rehabilitation project and not for specific units only²¹

In all, the Minutes of the Board’s Meeting provide the proof that the project proponent was committed to refurbishing not only Units 2 and 1 (which was later replaced with Unit 4 due to technical reasons), but also the remaining units and that additional funding was being sought for the entire project. Please note that the Second Novation Agreement of 2006 mentions all units covered by the CDM project scope. Schedule 2 to the Second Novation Loan Agreement on Enguri Hydro Power Plant Rehabilitation project of 29 December 2006 – “Categories and Drawdowns” – sets forth the categories of items to be financed out of the proceeds of the loan, the allocation of the loan to each category, and the maximum percentage of expenditures for items to be financed in each category. Amongst 14 categories, the following two are listed:

(3) Electrical and Mechanical Works for Units 1, 2 and 3

(10) Electrical and Mechanical Works for Unit 4 and/or 5, additional civil engineering works (...),.

The questions concerning the cessation of the implementation activity have been dealt with earlier in this response. It is demonstrated, with supporting evidence, that project implementation activity stopped for reasons of non payment of contractors (caused by lack of

²⁰ Annex 8: Minutes of Meeting #19 Of the Supervisory Board of “Engurhesi” Ltd

²¹ Annex 8: Minutes of Meeting #19 Of the Supervisory Board of “Engurhesi” Ltd

available funds, which has been traced mainly to the currency devaluation) and because of the deteriorating security situation. Evidence was provided that work ceased and that all contractors's staff were demobilized and left the site on 12 December 2005. Rehabilitation on units covered by the CDM project scope restarted only once the decision to pursue CDM finance was taken and Engurhesi undertook steps to secure additional funding using carbon finance as a key argument to guarantee the loan repayment.

Relevant information was also added to the Validation Report rev.05 section 3.7.1. p.17.

The PDD has been enhanced with the above rationale (version 07, dated 31 January 2012, section B.5, pages 33-35).

Appendices

Annex 1: Notification of Suspension due to late Payments from the Employer Letter dated 01.11.2005

VOITH SIEMENS HYDRO POWER GENERATION

Voith Siemens Hydro
Kraftwerkstechnik
GmbH & Co. KG
Heidenheim

Engurhesi Ltd.
The Director of the Enguri HPP
Rehabilitation
Project Implementation Unit

50, I. Chavchavadze Av

0179 Tbilisi/GEORGIA

Ihr Zeichen
Your Reference
Unser Zeichen
Our Reference
Telefon
+49 7321 37-
Telefax
+49 7321 37-
Datum
Date
E-Mail

wk Unr
7219
7090

01.11.2005
joachim.unruh@vs-hydro.com

Alexanderstraße 11
Postfach 2010
89510 Heidenheim / Germany
Zentrale:
Telefon +49 7321 37-7219
Telefax +49 7321 37-7090

Seiten gesamt 1
Pages total

Notification of Suspension due to late Payments from the Employer

Dear Sirs,

This is to notify you, that payment for deliveries of equipment and material for Unit 3 has been delayed by the Employer over the time of 45 days as agreed in the contract, thus the Employer has failed to perform his obligations under the clause 41.2 of the contract when not paying the invoices on time.

In this respect please be informed that if the outstanding payment will not be covered by the Employer within the following 28 days, we reserve right to suspend execution of the contract according to GC 42.3 of the contract.

In addition, please be informed that the contractor is entitled to claim interest on the accounts payable. Interest will be charged on the outstanding balance of the overdue accounts at the rate of 0,75% per month for the period of the delay until payment has been made in full.

Yours faithfully,
VOITH SIEMENS
Hydro Kraftwerkstechnik GmbH & CO KG.


J. Unruh
Commercial Project Manager

Geschäftsführung
Hans-Holger
Martin Andä
Dr. Lutz-Gert Henning

Handelsregister
Reg.-GmbH Heidenheim, HRA 1050
USt.-Id Nr. DE 183 806 124
St. Nr. 04304500000

Persönlich haftende Gesellschaftin
Voith Siemens Hydro Kraftwerkstechnik
Verwaltungs GmbH
Reg.-GmbH Heidenheim, HRD 1268

Vorsitzender des Beirates der
persönlich haftenden Gesellschafterin
Dr. Hubert Lierhard

Baukreditbank
Commerzbank AG, Heidenheim
(BLZ 631 400 16, Kto. 20 63 014)
Dresdner Bank AG, Heidenheim
(BLZ 614 300 01, Kto. 57 08 400 00)
Deutsche Bank AG, Heidenheim
(BLZ 613 100 00, Kto. 25 50 409)

A company of the joint venture

Voith Siemens
Hydro Power Generation

[Hydro Power Generation] auftragsgemäß ist kaufmännische, kommerzielle und technische Unterstützung zu leisten. [Hydro Power Generation] ist für die Ausführung der Aufgabenstellung verantwortlich. [Hydro Power Generation] ist für die Ausführung der Aufgabenstellung verantwortlich.

Annex 2: Site-Meeting Protocol. CW46 dated 19.11.2005

Notice on Suspension of Planned Start of Unit 2

Works again suspended from 3.11.05 due to repeated delay of payments to sub-contractor of Siemens.

According to updated schedule of works Unit #3 can not be completed until end of December 2005.

Statement of Contractor:

Unless financial problems are satisfactorily resolved by Engurhesi the Contractor gives a preliminary notice of suspension of works for the start of rehabilitation of Unit #2, which was planned to start on 22.12.05.

Statement of Employer:

Mobilization of additional resources is in progress which will facilitate works on Unit #2, therefore further delays due to non-payment of contractors will be mitigated.

Recorded delays of works by 24 calendar days for non-payment of salaries (strike of "Sakenergoremonti" Ltd. workers in September and in November) will be reviewed by the Employer as a compensation event to Voith-Siemens.

Preparation for Rehabilitation Unit #2

Rehabilitation Start

Employer announced Stop and Dismantling start of Unit #2 on 14 December 2005.
Contractor cannot accept this date due to delays as mentioned in item 1.1. above.

New start date for Unit 2 shall be agreed in beginning of 2006 after arrangement of financial back-up for the continuation of rehabilitation works.

Annex 4: Status Protocol. CW 47-29 dated 21.12.2005

Assault on VSPO Car
On 11.12.05 the VSPO car was attacked on the way back from Zugdidi to Saberio (inside Abkhazian). During that incident the security chief Mr. Shish lost his life and several persons in the car were injured.
Due to that assault and the insecure situation at site all VS /Siemens /VSPO personal left Enguri site to Tbilisi on 12.12.05 and back to Germany on 14.12.05
Clarification about return to side is under progress between Contractor and Employer headquarters and security departments.

Annex 5: EBRD Loan Drawdown Notice as of 31 December 2005

Annex 3-2: Drawdown of Funds from EBRD Loan (in USD) As of 31 December 2005									
Date				Value					
Payment from EBRD				Total EBRD Budget, USD					
C. Payment for Package 2, Electro-Mechanical Works, Voith-Siemens Hydro				Drawdown Application					
Invoice No.				Payment Value Date EBRD		EUR		Ex. Rate	
1	Advance payment	652 709	19 mai 2003	027	1 334 353,47				
2	Advance payment	652 709	19 mai 2003	028	3 152 255,29	2 745 388,7 €		0,87	
3	Payment for Shipment N051- FOB	653 081	13 apr 2004	034	546 993,95	452 248,0 €		0,83	
4	Payment for Shipment N051- CIF	653 096	13 apr 2004	037	22 791,82	18 844,0 €		0,83	
5	Payment for Shipment NN001, 054- CIF, N057- FOB	653-090/091/1;	02 iun 2004	039	611 452,88	499 023,0 €		0,816	
6	Payment for Shipment N055- FOB	653-125	10 iun 2004	041	580 787,09	470 883,0 €		0,811	
7	Payment for Shipment NN002, 052, 056, 064, 066- CIF	653-226/227/2;	28 sep 2004	044	969 632,66	787 743,0 €		0,812	
8	Payment for Shipment NN055, 059, 4341-3- CIF, LM2, Progress	653-261/262/2;	28 sep 2004	045	353 635,11	287 296,0 €		0,812	
9	Payment for Shipment N055, 057, 070- CIF	653-126/128/2;	28 sep 2004	046	76 351,50	62 029,0 €		0,812	
10	Payment for Shipment N4341-29, 072, 076, 077- CIF	653-276/277	16 nov 2004	050	42 705,00				
11	Payment for Shipment N4341-39, (082)- CIF	653-297/298	16 nov 2004	051	68 399,46	52 908,0 €		0,774	
12	Payment for Three Design Liaison Meetings (I+II+60% of III)	653-333	17 dec 2004	054	132 422,67	98 978,0 €		0,747	
13	Progress Payment for Unit 3 and Auxiliaries Rehabilitation	653-364	24 feb 2005	059	363 659,17	274 937,0 €		0,756	
14	Completion of Auxiliaries	653-391/392/3;	25 mai 2005	064	168 047,46	133 413,4 €		0,794	
15	Payment for Shipment N009, FOB+CIF	653-482	26 apr 2005	071	146 503,51	119 947,2 €		0,819	
16	Payment for completion of Deliveries on Unit3 and Auxiliaries	653-593	20 dec 2005	080	292 540,69	103 348,6 €	\$168 264,0	0,832	
Disbursed					8 862 531,92				
Undisbursed					5 947 468,08				

Annex 6: Actual invoice from Voith Siemens for works on Unit 2

Enguri HPP

Invoices and Payments, VOITH-SIEMENS

UNIT #2			
Invoice No.	Payment	EUR	USD
Advance Payment	19.05.2003	1 191 826,0	411 234,8
Advance portion of Enguri	23.03.2004	294 664,6	78 032,4
653-123	02.06.2004	640,0	
653-091	02.06.2004	15 358,0	
653-125	10.06.2004	69 137,0	
653-126	28.09.2004	2 881,0	
653-482	28.08.2005	119 947,2	
653-752	11.08.2006	1 481 731,0	802 192,0
653-765	11.08.2006	10 800,0	
653-753	11.08.2006	92 659,0	
653-754	11.08.2006	5 860,0	
653-761	11.08.2006	4 145,6	1 105,0
654-040	13.08.2007	54 566,4	
654-046	07.09.2007	28 336,9	
654-065	14.09.2007	1 034,0	
654-057	14.09.2007	12 206,6	
654-058	14.09.2007	23 209,8	
654-059	14.09.2007	13 847,5	
654-060	14.09.2007	1 432,1	
654-061	14.09.2007	7 668,5	
654-062	14.09.2007	54 550,6	
653-927	29.05.2007	4 530,0	
653-936	29.05.2007	23 246,6	
653-855	29.05.2007	17 412,0	
653-935	29.05.2007	8 744,0	
653-933	29.05.2007	22 200,0	
653-755	29.05.2007	14 602,5	
653-852	29.05.2007	44 380,7	
653-878	29.05.2007	332 969,8	
653-972	29.05.2007	142 697,9	
653-974	29.05.2007	2 952,2	
653-920	29.05.2007	24 251,9	
653-918	29.05.2007	17 251,3	
654-108	28.01.2008	220 558,4	79 323,8
654-107	28.01.2008	125 710,7	
654-187	25.02.2008	51 588,8	
654-186	25.02.2008	26 788,7	1 029,4
654-182	25.02.2008		10 333,9
654-242	12.05.2008	207 831,4	
654-243	12.05.2008		72 146,5
654-315	31.07.2008	3 034,5	
654-314	31.07.2008	8 704,0	
654-313	31.07.2008		4 317,2
654-298	31.07.2008	15 228,7	
654-302	31.07.2008	3 570,6	
654-304	31.07.2008	2 080,6	
654-244	15.09.2008	16 704,6	
654-351	15.09.2008	29 246,4	
654-355	15.09.2008	5 249,6	
654-356	15.09.2008	5 572,5	
654-353	15.09.2008	18 713,6	
654-352	15.09.2008	12 582,5	
654-354	15.09.2008	9 186,8	
		€ 4 904 092,40	\$ 1 459 714,91

Annex 7: Letter from Voith

VOITH

Voith Hydro GmbH & Co. KG, P.O. Box 29 16, 89510 Heidenheim, Germany

Voith Hydro

Voith Hydro GmbH & Co. KG
Alexanderstraße 11
89512 Heidenheim, Germany
Phone +49 7321 37-0
Fax +49 7321 37-7128
www.voithhydro.com

A Voith and Siemens Company

**Engurhesi Ltd.
The Director of the Enguri HPP Rehabilitation
Project Implementation Unit**

50, I. Chavchavadze Av

0179 Tbilisi/GEORGIA

Ihr Zeichen
Ihre Nachricht
Unser Zeichen **wk-Unr**

Telefon Durchwahl
Telefax Durchwahl
Datum
E-Mail **-7219
-7090
2010-12-06
Joachim.Unruh@voith.com**

To Whom It May Concern:

1. The rehabilitation works at the Enguri Hydro Power Plant were stopped on several occasions in the year 2005-2006 due to financial difficulty faced by the employer (leading to late payments) and security issues.
2. The rehabilitation works was stopped on several occasions in the year 2005 but on the following dates the work was fully stopped and all expatriate staff of Voith-Siemens, Siemens and its sub-contractors were demobilized from the construction site:

13 December 2005 – 12 January 2006.

3. The rehabilitation works at the site were re-started after both the over-due payments were made by the Employer to and the security issues were addressed.
4. The rehabilitation work was re-started on 13 January 2006 when engineers from Voith-Siemens arrived at site and sub-contractor's personnel were mobilized back to work.
5. Information provided in this letter is accurate and based on historical records.

**Yours faithfully
VOITH Hydro GmbH & Co. KG
J. Unruh
Commercial Project Manager**

**M. Thomczyk
Project Manager**

Board of Management
Aage Salte, Chairman
Rajend Kishor
Herbert Voigt

Commercial Register
Reg.-Court Ulm
HRA 641030
USt-Id.Nr. DE 183866124
Steuernr. 94524-08825

General Partner
Voith Hydro VireoLunge GmbH
Reg.-Court Ulm, HRB 661288

Chairman Supervisory Board
of the General Partner
Dr. Roland Münch

Bank Account
Commerzbank AG, Heidenheim
Bank Code No. 622 490 10
Acc. No. 20 65 014
IBAN DE75 6324 0516 0396 3514 05
Swift Code COBADE33

**Germany
Land of Ideas**
Official Partner

Siemens

Annex 8: Minutes of Meeting #19 Of the Supervisory Board of “Engurhesi” Ltd

English

M. Tskvitishvili Narrative of Manager of the Project Implementation Unit on available funds for Unit #2 rehabilitation and on sources of funding:

1. Due to USD/EUR devaluation since allocation of EBRD loan until end November 2005, which is over 20%, deficit of financing for Unit #2 already reached 500 thousand USD.
2. Considering requirement for Additional supplies and works on Unit #2, additional funding shall be sought for Unit #2 in the range of 1.1 million USD.
3. The donor society shall be informed about the existing funding deficit and additional funding must be requested to complete the rehabilitation program.
4. Considering the additional output potential from the rehabilitated units, the Ministry of Energy of Georgia shall be solicited to request registration of the Enguri project in the UNFCCC under the Kyoto protocol. Potential additional sources of revenues through Carbon Credits will support mitigation of financing deficit for Unit #2 and for remaining units.

2. The Project Manager of PIU to initiate discussions with the EBRD for registration of the Enguri HPP rehabilitation project in the UNFCCC with the view of obtaining additional source of funding through potential Carbon Credits generated by the Rehabilitation Project.

Georgian

მ. ცქვიტიშვილი: პროექტის განმახორციელებელი ბიუროს მენეჯერის მოხსენება №2 აგრეგატის დაფინანსებისა და დაფინანსების წყაროების შესახებ:

1. EBRD-ს სესხის გამოყოფიდან 2005 წლის ნოემბრამდე USD /EUR ვარდნის გამო, რამაც 20%-ს გადააჭარბა, №2 აგრეგატის დაფინანსების დეფიციტი უკვე შეადგენს დაახლოებით 500 ათას USD-ს.

2. დამატებითი სამუშაოების საჭიროების გათვალისწინებით,

№2 აგრეგატის დაფინანსებისთვის საჭირო დამატებითი მოსაძიებელი თანხა უკვე შეადგენს 1,1 მილიონ USD-ს.

3. რეაბილიტაციის პროექტის არსებული გეგმის ბოლომდე დაფინანსების მიზნით სასურველია ეცნობოს დონორებს დამატებითი სახსრების საჭიროების შესახებ.

4. რეაბილიტირებული აგრეგატების მიერ მოსალოდნელი გაზრდილი გამომუშავების გათვალისწინებით უნდა მიემართოს საქართველოს ენერგეტიკის სამინისტროს, რათა მოითხოვოს ენგურის რეაბილიტაციის პროექტის ჩართვა კიოტოს პროტოკოლის UNFCCC-ში კარბონის კრედიტების მოპოვების მიზნით. კარბონის კრედიტებიდან მიღებული დამატებითი შემოსავლები დაეხმარება ენგურესს შეავსოს №2 აგრეგატზე წარმოშობილი დაფინანსების დეფიციტი.

2. დაევალოს რეაბილიტაციის პროექტის მენეჯერს დაიწუოს მოლაპარაკება EBRD-სთან, რომ ენგურის პროექტი წარდგენილ იქნეს UNFCCC-ში კარბონის კრედიტების მოპოვებასთან დაკავშირებით.

Annex 9: Letter from Thomas Poniwass from Voith Siemens to Malkhaz Tskvitishvili dated 10/01/2006

Malkhaz Tskvitishvili

From: "Poniwaß, Thomas" [Thomas.Poniwass@VS-Hydro.com]
Sent: Tuesday, January 10, 2006 9:13 PM
To: malkhaz@hotmail.com
Cc: Schmarda, Christoph; "Vergé, Herbert"; Riederer, Bernhard; Knoll, Engelbert; stephan.lisser@siemens.com; michael.meisel@siemens.com; pierre-louis.rossi@edf.fr; Wiese, Ralf; Debor, Joachim; Kaiser, Michael
Subject: ENG, RE:Enguri; follow-up mobilizing of Contractors staff; VSHK/PIU-0457

Dear Malkhaz,

first of all we have to thank you for your letter below. As you know the approach and the success in the project is only possible in a good team and not depending of individuals. The team itself is composed of the Employer, EDF and the Contractor.

With reference to the security assessment took place from January 4th to 6th, 2006, we just got the results from our security department.

Resulting of this internal report we herewith inform you, that we got the permission to restart the project activities at the site.

This decision was taken under consideration that the agreed security measures will be properly followed by all parties.

In case that the security measures will slow down by reasons beyond our control we are obliged to leave the site again. Therefore we kindly ask you to ensure that the agreed security measures will be applied during the whole project time.

Our staff will arrive as follows (arrival in Tbilisi):

Mr. Lisser : 12.01.2006
Mr. Wuhler: 12.01.2006
Mr. Stranz : 12.01.2006
Mr. Kickmeier : 12.01.2006
Arrival at site: 13.01.2006

Mr. Hohn: 15.01.2006
Mr. Kaiser: 15.01.2006
Arrival at site: 16.01.2006

After arrival of our staff in Tbilisi we will contact you in order to organize the transfer from the Abchazian checkpoint to Saberio.

Finally we remind you to improve the working security inside the power-house as mentioned in the MoM of December 13th, 2005, item 5.1. All the mentioned actions should be finalized by the Employer in the absence of the Contractor.
Regarding the working security we will contact you later on in more detail.

Yours sincerely / Mit freundlichen Grüßen

Thomas Poniwass

VOITH SIEMENS

HYDRO KRAFTWERKSTECHNIK GMBH & Co.KG

VSHK-wpp Project Management

Phone : +49 7321 37 6412

Fax 1 : +49 7321 37 7055

<mailto:Thomas.Poniwass@vs-hydro.com <mailto:Thomas.Poniwass@vs-hydro.com> >

Annex 10: Operational Acceptance Certificate related to Unit #2

Enguri HPP and Dam Rehabilitation Project
Rehabilitation of the Power Plant
Package 2 Contract between Engurhesi Ltd. and Voith Siemens

OPERATIONAL ACCEPTANCE CERTIFICATE RELATED TO UNIT N°2

To: Voith Siemens Hydro Kraftwerkstechnik GmbH & Co.KG.,
Alexanderstrasse 11; 89522 Heidenheim/Germany
Attention to Mr. Thomas Poniwass

Date: March 3th, 2008

Dear Ladies and/or Gentlemen,

Pursuant to GC 25.3 (Operational Acceptance) of the General Conditions of the Contract entered into between yourselves and the Employer dated 25th of November 2002 relating to the Rehabilitation of the Unit No 3, 1 and 2 and Auxiliaries systems installed at Enguri HPP, we hereby notify you that the functional guarantees of the following parts of the Facilities were satisfactorily attained on the date specified below.

Description of the Facilities or part thereof:

1. Description of the Facilities: **Unit 2**

- Replacement of generator consisting of:
 - Stator core and stator winding
 - Stator bar cooling system (pure water system)
 - Re-insulation of the rotor poles
 - Air coolers
- Voltage regulator and excitation system
- Low voltage equipment and accessories
- Unit control and protection system
- Rehabilitation of speed governor
- Rehabilitation of spherical valve operating system
- Fire fighting system
- Rehabilitation of braking / jacking system

Date of operational acceptance: **March 3th 2008**

Electrowatt
Engineering Ltd. (EWE)
CH-8037 Zurich
Telephone +41 1 - 355 55 55
Telefax +41 1 - 355 55 61

Independent Engineer
A Joint Venture of:
Electricité de
France (EdF)
F-73373 Le Bourget du Lac
Telephone +33 4 - 76202001
Telefax +33 4 - 76208000

STUCKY Ltd. (STY)
33 Rue du Lac,
CH-1020 Renens
Telephone +41 21 - 6371513
Telefax +41 21 - 6371508

Annex 11: Letter to ProCredit Bank of 22 Dec 2005

შპს ენგურესი ENGURHESI LTD

№ 8-01/97 22 12 2005 წ. 17.

მმართველი
RE.

“პროკრედიტბანკის” ქუთაისის ფილიალის
ზუგდიდის განყოფილების მმართველს
ბატონ კახა გაბესკირიას

ბატონო კახა,

გთხოვთ განიხილოთ შპს “ენგურესი” საკრედიტო ხაზის გახსნის შესახებ გლობა 200,000 აშშ დოლარის ოდენობით. აღნიშნული თანხების მიზნობრივობა განისაზღვრება ორგანიზაციის მიმდინარე საოპერაციო ხარჯებისა და გადაუდებელი სარეაბილიტაციო სამუშაოების თანა-დაფინანსების მიზნებისათვის.

დადებითი გადაწყვეტილების შემთხვევაში გთხოვთ გვაცნობოთ თუ რა ხაზის დოკუმენტაციის წარმოდგენა მოითხოვება საკრედიტო განაცხადის განხილვის მიზნით.

პატივისცემით,

ფინანსური მენეჯერი *G. Shonia* გ. შონია

საბავშვო, ქ. მთაწმინდა 6179, საქართველო, თბილისი, N50 ადრ: +995 (32) 29-43-62 მადის: +995 (32) 29-37-83
საბავშვო, ქ. ნაძვლისძაღვი 2100, საქართველო, ქ. Tbilisi ადრ: +995 (315) 5-22-34 მადის: +995 (315) 5-51-00; +995 (315) 5-22-94
ელ.ფოსტა: info@engurhesi.ge
50 Chavchavadze Ave, Tbilisi 0179, Georgia Tel: +995 (32) 29-43-62 Fax: +995 (32) 29-37-83
90 Rustaveli st, Zugdidi 2100, Georgia Tel: +995 (315) 5-22-34; Fax: +995 (315) 5-51-00; +995 (315) 5-22-94
E-mail: info@engurhesi.ge

Translation

z-01/97

Date: 22 December 2005

To: Kakha Gabeskiria

Head, Zugdidi Branch of Procredit Bank

Dear Mr. Kakha,

Please review the possibility of opening a credit line for Engurhesi Ltd. in the amount of USD 200,000. These funds are planned to be used for ongoing operation costs of organization and for co-financing of urgent rehabilitation works.

In case of positive decision please let us know what documentation of the company will be required for approving the requested credit line.

Sincerely,

Financial Manager

(signed)

G. Shonia