



TRANSPARENCY INTERNATIONAL - PAKISTAN

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24th August 2023

TIP 2023/0824/1A

Mr. Muhammad Ali,
Caretaker Minister for Energy, Power and Petroleum,
Islamabad.

Subject: Complaint against M/s ENI Pakistan Limited defaulted its commitment to 15 years Agreement of Supplying 11 Million Tons LNG to Pakistan

&

Complaint against the Purchasing of allegedly undervalued Assets USD16.4M Vs \$400M (approx.) of M/s ENI Pakistan Limited by an inexperienced company M/s Prime International Oil& Gas Company (PIOGCL) for allegedly evading Tax of USD 75m (approx.) to National Exchequer

Dear Sir,

Transparency International Pakistan has received a complaint that the Italian power giant, ENI S.p.A. has earned about \$550 million by defaulting their contractual obligations with Pakistan, and instead supplying the LNG Cargos to Turkey. The complainant has attached report published by Business Recorder dated 20th April 2023 (**Annex-A**).

The complainant has made following allegations;

That,

1. Eni has repeatedly cancelled gas shipments to Pakistan, and that ENI S.p.A made half a billion dollars selling the fuel elsewhere.
2. Pakistan in 2017 signed contracts with ENI to supply the country with liquified natural gas, or LNG, monthly for 15 years, but as gas prices surged, Eni appears to have diverted Pakistan's gas to higher bidders.
3. Because of ENI default, Pakistani factories suffered and the government has paid heavy spot market premiums to replace lost supplies, which aggravated the economic recovery of Pakistan.
4. Pakistan government shall act against ENI and recover all losses caused by their default of LNG Cargo supply.

Transparency International Pakistan comments.

- A. The subject issue was taken up with the Minister of Petroleum by Transparency International Pakistan in September 2022 and the matter was sent to the Prime Minister.
- B. Transparency International Pakistan refers to its letter No: TIP 2022/10/24/1A dated 24th October 2023 regarding the subject above, sent to the Ministry of Petroleum in response to the Ministry of Energy, Petroleum Division letter dated 11th October 2022. (**Annex B**)
- C. TI Pakistan had pointed out that in addition to the objection raised by the Ministry of Law in April 2022, Pakistan LNG Ltd. (PLL) has also filed Arbitration in the London Court of International Arbitration (LCIA) against M/s ENI, for Rs. 20 billion damages collection, for failure to supply 5 LNG cargoes in line with the contractual obligations (**Annex C**)
- D. The failure by M/s ENI to supply RLNG cargoes as per the contract not only resulted in serious economic loss to Pakistan as it had to buy LNG at 5 times the prices on which

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ENI had to supply, but has also contributed to the increase in price of electric generation, thereby resulting in economic crises for the country.

- E. TI Pakistan has also earlier requested to the Ministry of Petroleum to ensure that the liabilities of Rs. 20 billion are cleared prior to the approval of sell of shares of M/s ENI and ensure that the objections of the Ministry of law are also duly addressed, which recoveries seems not recovered till date.

Transparency International Pakistan Recommendations

TI Pakistan once again request the caretaker minister for Energy, Power and Petroleum to look into this fresh alleged evidence of Millions of dollars of profit being made by M/s ENI due to its breach of contractual agreement in form of non-provision of the promised LNG cargos to Pakistan.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption, and achieve Zero tolerance against corruption.

Regards,


Advocate Daniyal Muzaffar,
Trustee/Legal Advisor
Transparency International Pakistan

Copies forwarded for the information with request to take action under their mandate to:

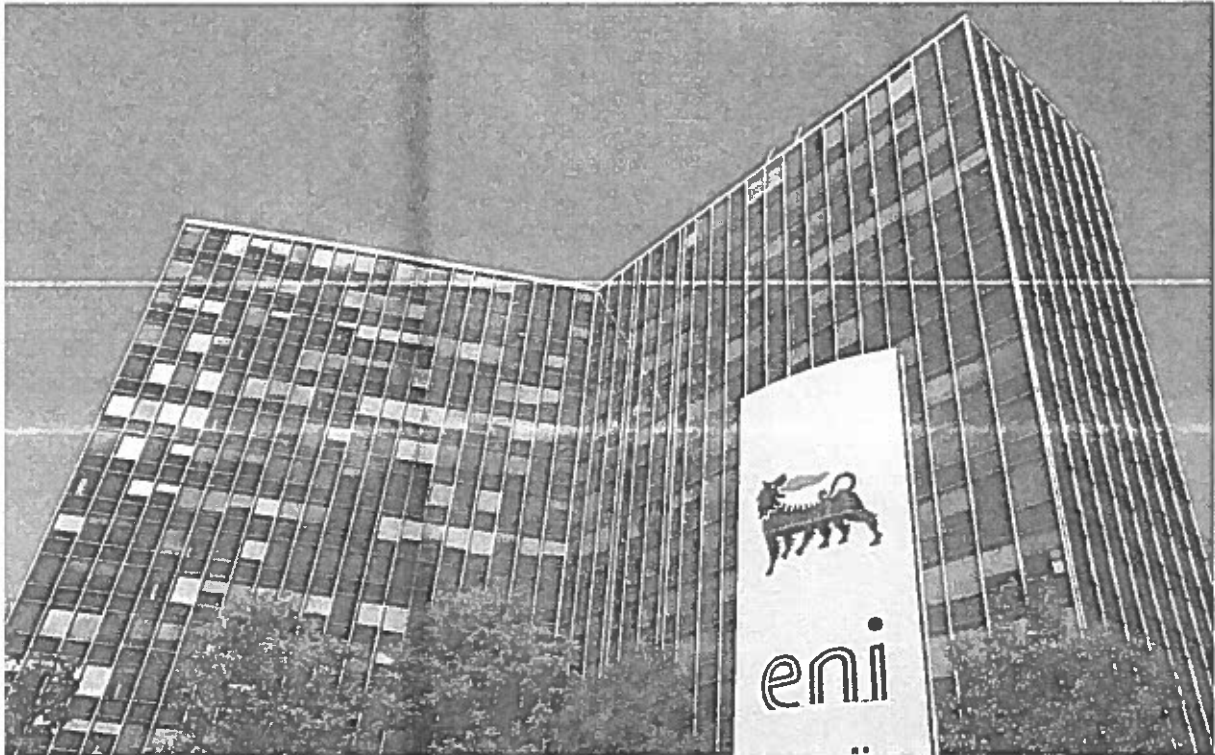
1. Principal Secretary, Caretaker Prime Minister, PM House, Islamabad
2. Caretaker Minister, Ministry of Finance and Revenue, Islamabad
3. Chairman, Prime Minister's Inspection Commission (PMIC), Islamabad
4. Chairman, OGRA, Islamabad
5. Registrar, Supreme Court of Pakistan, Islamabad

Note:

This is to clarify that Transparency International Pakistan is not the complainant. It acts as whistleblower and operate under Article 19-A, of the Constitution of Pakistan which gives the right to public to know how government is being run by public officers. Article 19-A makes the right to access of information pertaining to a public authority a fundamental right, Justice Syed Mansoor Ali Shah in his landmark judgment in case of Ataulah Malik v. Federation of Pakistan includes following order;

Right to information is another corrective tool which allows public access to the working and decision making of the public authorities. It opens the working of public administration to public scrutiny. This necessitates transparent and structured exercise of discretion by the public functionaries. Article 19-A empowers the civil society of this country to seek information from public institutions and hold them answerable. PLD 2010 Lahore 605.

Photo: Reuters



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Italian power giant, Eni S.p.A. earned about \$550 million by cancelling and then reselling contracted liquefied natural gas promised to Pakistan over the last two years, stated a report published Friday.

The cancellation of contracts worsened Pakistan's energy situation, according to [Bloomberg](#), which cited an analysis by SourceMaterial, an investigative nonprofit, and Recommon, an Italian environmental group.

[Read the SourceMaterial article here](#)

As per the report, Eni, which has a 15-year deal to supply Pakistan LNG (PLL) from 2017 to 2032, failed to deliver a number of scheduled shipments between late 2021 and early 2023 under a contract to supply one LNG cargo a month.

During the almost two-year period, Eni's LNG ships stopped going to Pakistan and headed to Turkey instead, it was stated in the report. The company denies it benefited and all undelivered cargoes to Pakistan were beyond the reasonable control of the firm, according to [Bloomberg](#).

"Eni does not benefit in any way from the situation," said the company in a statement. "All the previous disruptions in LNG delivery suffered by Eni have been caused by the LNG supplier who didn't fulfill the agreed obligations.

"Also in these cases, Eni did not take advantage or benefit in any way from these defaults and applied all contractual provisions to manage such disruptions."

Annex-A

Meanwhile, in response to questions from SourceMaterial, it termed suggestions it had profited from defaulting on obligations to PLL as “false and unfounded”.

“All undelivered cargoes to PLL in Pakistan were beyond the reasonable control of Eni and were caused either by events of force majeure affecting the relevant LNG suppliers or by disruptions affecting the LNG supply chain,” an Eni spokeswoman told SourceMaterial.

“Eni has not benefited in any way from the situation and has in all cases evaluated and agreed alternative commercial solutions among the affected parties, including supply of replacement cargoes, rescheduling, and deferrals.”

The Pakistan government said “non-supply of LNG cargoes by Eni are a contractual matter covered under the confidentiality provisions”, according to [Bloomberg](#).

However, the analysts found that was not the case as the fuel destined for Pakistan was sold to Turkey instead which resulted in over half a billion dollars profit, citing estimates based on prices paid by Turkish gas company Botas at the time.

The report said that in 2022, Botas received 19 Eni cargoes from Damietta; while Pakistan got just one.

“Fossil fuel companies such as Eni want us to believe they are contributing to energy security,” said Alessandro Runci, a campaigner at Recommon. “This investigation shows how their only goal is to secure their own profits at any cost.”

As per Eni's contracts, the Italian power giant was required to pay Pakistan 30% of the originally agreed price for any undelivered cargo. However, the penalties were dwarfed by high spot prices offered in the market in wake of Russia's 2022 invasion of Ukraine.

“High prices on the spot market make those penalties look insignificant,” a senior industry figure in Pakistan told SourceMaterial.

[Prime International acquires Eni's business in Pakistan: Hubco](#)

Pakistan has struggled to procure spot cargoes of LNG amid elevated global gas prices, which spiked to record highs last year following Russia's invasion of Ukraine.

Pakistan imported 9 billion cubic metres (bcm) of LNG last year, according to Refinitiv data, down nearly 20% from 11.2 bcm in 2021.

Earlier this year, [Eni's delivery of a LNG cargo to PLL](#) that was scheduled for February was disrupted due to an event of force majeure.

“February LNG delivery disruption is beyond the reasonable control of Eni and due to an event of force majeure,” said the company in a statement to [Reuters](#) back then.

Annex-B



Plot 72-F/2, 1st Floor, 9th Street, Jami Commercial,
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Website: www.transparency.org.pk

TIP 2022/1024/1A

October 24, 2022

Mr. Musadik Malik
Minister of State (Petroleum Division)
Pak Secretariat, Block B
Islamabad

Subject: Complaint against M/s ENI Pakistan Limited defaulted its commitment to 15 years Agreement of Supplying 11 Million Tons LNG to Pakistan

&
Complaint against the Purchasing of allegedly undervalued Assets USD16.4m Vs \$400m (approx.) of M/s ENI Pakistan Limited by an inexperienced company M/s Prime International Oil & Gas Company Limited (PIOGCL) for allegedly evading Tax of USD 75m (approx.) to National Exchequer

Dear Sir,

TI Pakistan refers to the Ministry of Energy/ Petroleum Division letter No. Expl-7(3)(TIP Complaint ENI/2022 dated 11th October and received on 18th October 2022 in response to TI Pakistan letter No. TIP2022/0901/1A dated September 1, 2022. **Annex-A**

Similar clarification was earlier given by Add. Secretary (A) Ministry of Energy/ Petroleum Division on 23.9.2022 and by DG (LNG) on 30.9.2022, but as the responses did not clearly address the two issues, Transparency International Pakistan sent its reply to the PM and Ministry of Energy/ Petroleum Division on October 6, 2022 (**Annex-B & C**)

The complainant has further informed that in addition to the objection raised by the Ministry of Law, in April 2022, Pakistan LNG Limited (PLL) has also filed Arbitration in the London Court of International Arbitration (LCIA) against M/s ENI, for Rs20 billion damages collection, for failure to supply five LNG cargoes in line with the contractual obligations (**Annex-D**).

The minister is requested to ensure that liabilities of Rs 20 billion are cleared prior to the approving sale of shares and objections of Ministry of Law are duly addressed.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption, and achieve against Zero tolerance against corruption.

Regards


Advocate Daniyal Muzaffar,
Trustee/Legal Advisor
Transparency International Pakistan

Copies forwarded for the information with request to take action under their mandate to:

1. PSPM. PM House, Islamabad
2. Senator Ishaq Dar, MoF, Islamabad
3. Prime Minister's Inspection Commission (PMIC), Islamabad
4. Chairman, OGRA, Islamabad
5. Chairman, SECP, Islamabad
6. Registrar, Supreme Court of Pakistan, Islamabad
7. Chairman, Energy Task Force, Islamabad

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TRANSPARENCY
INTERNATIONAL-PAKISTAN

Continuation Sheet No.....

Note:

This is to clarify that Transparency International Pakistan is not the complainant. It acts as a whistleblower and operate under Article 19-A, of the Constitution of Pakistan which gives the right to public to know how government is being run by public officers. Article 19-A makes the right to access of information pertaining to a public authority a fundamental right, Justice Syed Mansoor Ali Shah in his landmark judgment in case of Ataulah Malik v. Federation of Pakistan includes following order;

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Expl-7(3) (TIP Complaint ENI)/2022
Government of Pakistan
Ministry of Energy, Petroleum Division
Directorate General of Petroleum Concessions

Islamabad, 11th October 2022

✓
Transparency International-Pakistan,
Plot 72-F/2, 1st Floor, 9th Street,
Jami Commercial Phase-7, DHA,
Karachi

Subject: COMPLAINT AGAINST M/S ENI PAKISTAN LIMITED DEFAULTED ITS COMMITMENT TO 15 YEARS AGREEMENT OF SUPPLYING 11 MILLION TONS LNG TO PAKISTAN.

Please refer to your letter No. TIP 2022/0901/1A dated 1st September 2022 on the above subject.

2. The Complaint No-1 pertains to default of M/s Eni Pakistan Limited with respect to LNG. It is stated that M/s Eni Pakistan Limited, M/s Eni Pakistan (M) Limited and M/s Eni Pakistan (AEP) Limited are working in Pakistan in upstream petroleum sector and they are party to the Petroleum Concession Agreements (PCAs) signed with the President of Pakistan. Whereas, M/s Eni S.P.A, Italy is not working in upstream petroleum sector of Pakistan and is not party to any PCAs. It is clarified that M/s Eni S.P.A is incorporated in Italy and it is responsible for business of LNG. There is no provision in the petroleum rules which links the actions of companies that are not party to a PCA with those of concession holders.

3. With regard to LNG supply by M/s Eni S.p.A. comments are as under;
- a. Eni S.p.A, Italy has been delivering LNG cargoes under its Master Sales and Purchase Agreement (MSPA) signed in 2017. The company has supplied 51 cargoes of LNG in accordance with the said contract but has defaulted on supply of 8 cargoes since January 2021.
 - b. The MSPA between Pakistan LNG Limited (PLL) and Eni governs the provisions of seller's failure to deliver the LNG. In case of seller's failure to deliver, following option are available with the Parties under the contract:
 - i. Rescheduling of cargo quantity to a later date, with mutual consent; or
 - ii. Buyer to claim damages under the contract
 - c. The decision regarding adopting any of the above options would be taken considering the situation in the international energy markets and the requirements of gas in future months in Pakistan and protecting the contractual rights of PLL.

4. Complaint No-2 pertains to the sale and purchase of the entire assets of the three M/s Eni companies in Pakistan i.e M/s Eni Pakistan Limited, M/s Eni Pakistan (M) Limited and M/s Eni Pakistan (AEP) Limited to M/s Prime International Oil & Gas Company Limited (PIOGCL). The Petroleum Division has thoroughly examined the case both technically and

financially. According to the applicable petroleum rules and policies, the Government is to ensure that the seller has fulfilled its financial obligations and the buyer has the technical and financial strength to fulfil the minimum work commitments and other financial obligations as mentioned in the PCAs. The actual value of Eni assets is a commercial matter between the buyer and seller and does not fall within the ambit of this Division nor required under the rules. Furthermore, due diligence has been conducted with respect to financial strength and technical capabilities of M/s PIOGCL. It is clarified that M/s PIOGCL is a local company comprising of 50% ownership by M/s HUBCO and 50% by Employees Buy Out Group (EBO Group) of Eni. It has a management team which is qualified and technically experienced, with proven track record of overseeing and managing operations pertaining to upstream oil and gas industry. As regard to the financial capabilities, M/s HUBCO shall provide all financial support to PIOGCL.

5. The response on the recommendations made by TIP is as under:

Complaint No-1:

- i. Addressed at para-3 ante.

Complaint No-2:

- i. The evaluation of assets of M/s Eni is a commercial matter between the buyer and seller and does not fall within the ambit of this Division. According to FBR there is no due tax liability pending on part of M/s Eni. FBR has also stated that the difference in sale value of share sold and fair market value of the shares and consequent capital gain tax if any, will be determined during audit in response to filing of return by M/s Eni Pakistan during audit/ amendment proceedings.
- ii. The requirement of the petroleum rules has already been taken care of as explained at para-4 ante.
- iii. FBR has stated that M/s Eni has paid withholding tax of Rs. 397,465,968/ and there is no due tax liability pending on part of M/s Eni. FBR has also issued NOC for the said change of effective control from M/s Eni to M/s PIOGCL. It is to clarify that OGDCL is an E & P company and doesn't have any authority to approve the said deal.


(Hassan Mehmood Yousafzai)
Additional Secretary (A)

Cc:

- Additional Secretary-II,
Prime Minister's Office
Islamabad.

w.r.t U.O No. 4(26)/DS(EA-1)/2022/2, dated 28-09-2022

- Secretary, Cabinet Division, Islamabad.
- Staff Officer to Finance Minister, Islamabad



Transparency International Pakistan <ti.pakistan@googlemail.com>

Your Citizen Portal Complaint is Resolved | آپ کے سٹیزن پورٹل کی شکایت حل ہوگئی ہے

1 message

Pakistan Citizen Portal <support.pmdu@pmo.gov.pk>
To: ti.pakistan@gmail.com

Fri, Sep 30, 2022 at 3:59 PM

Respected Citizen! / محترم شہری

Following Officer (Director General (LGs)) closed your complaint code (IS020922-90235936) with following status (Relief Not Granted). Please see the remarks.

Officer Remarks:

Dear Citizen With regard to complaint No.1 on the LNG supply in the Transparency International Pakistan's letter, the matter has been examined in consultation with Pakistan LNG Limited (PLL). It is briefed that PLL is a 100% government owned public sector company, who has been mandated to import LNG to meet energy requirements of the country. PLL has signed a 15-year term LNG supply agreement with Eni S.p.A. pursuant to a PPRA compliant open tender. Eni S.p.A. is an Italian LNG producer based in Italy and it is a separate entity then Eni Pakistan Limited. In fact, PLL has never had any business or commercial relations with Eni Pakistan Limited. Under the agreement with Eni S.p.A., Eni supplies one LNG cargo per month for the duration of the agreement. The sale/ purchase, events of default, supply and non-supply of LNG are governed by the agreement between the parties. Accordingly, PLL is handling the issue in terms of the mutual agreement. PLL has further reported that it imports LNG, re-gasifies it and supplies the RLNG to SNGPL and K-Electric. It has no role in power generation/management, its pricing and its load management. PLL is not involved in any such functions, and they fall outside the mandate of PLL.

Email: support.pmdu@pmo.gov.pk
Pakistan Citizen Portal
PMDU|PMO|Islamabad, Pakistan

Government of Pakistan
Ministry of Energy, Petroleum Division
Directorate General of Petroleum Concessions

Subject: COMPLAINT AGAINST M/S ENI PAKISTAN LIMITED DEFAULTED ITS COMMITMENT TO 15 YEARS AGREEMENT OF SUPPLYING 11 MILLION TONS LNG TO PAKISTAN.

Reference Prime Minister's Office U.O No. 4(26)/DS(EA-I)/2022 dated 13th September, 2022, on the above subject. The comments of this Division are as under:

1. The Complaint No-1 in the Transparency International letter pertains to default of M/s Eni Pakistan Limited with respect to LNG. It is stated that M/s Eni Pakistan Limited, M/s Eni Pakistan (M) Limited and M/s Eni Pakistan (AEP) Limited are working in Pakistan in upstream petroleum sector and they are party to the Petroleum Concession Agreements (PCAs) signed with the President of Pakistan. Whereas, M/s Eni S.P.A is not working in upstream petroleum sector of Pakistan and is not party to any PCAs. It is clarified that M/s Eni S.P.A is incorporated in Italy and it is responsible for business of LNG. There is no provision in the petroleum rules which empower this Division to take action against the company which is not party to any PCA.
2. Complaint No-2 pertains to the sale and purchase of the entire assets of the three M/s Eni companies in Pakistan i.e M/s Eni Pakistan Limited, M/s Eni Pakistan (M) Limited and M/s Eni Pakistan (AEP) Limited to M/s Prime International Oil & Gas Company Limited (PIOGCL). The Petroleum Division has thoroughly examined the case in detail both technically and financially. According to the applicable petroleum rules and policies, the mandate of this Division is to ensure that the seller has fulfilled its financial obligations and the buyer has the technical and financial strength to fulfil the minimum work commitments and other financial obligations as mentioned in the PCAs. The actual value of Eni assets is a commercial matter between the buyer and seller and does not fall within the ambit of this Division nor required under the rules. Furthermore, due diligence has been conducted with respect to financial strength and technical capabilities of M/s PIOGCL. It is clarified that M/s PIOGCL is a local company comprising of 50% ownership by M/s HUBCO and 50% by Employees Buy Out Group (EBO Group) of Eni. It has a management team which is qualified and technically experienced, with proven track record of overseeing and managing operations pertaining to upstream oil and gas industry. As regard to the financial capabilities, M/s HUBCO shall provide all financial support to PIOGCL.
3. The query raised in Complaint No-2 (iii) pertains to Federal Board of Revenue (FBR). Nevertheless, this Division asked FBR for its clearance/NOC regarding the Change of Control of M/s Eni to PIOGCL. FBR identified a withholding tax liability of Rs. 397.46 million out of the three Sale Purchase Agreements (SPAs) between M/s Eni and PIOGCL. M/s Eni has paid the withholding tax as determined by FBR and NOC has been issued by FBR for the said change of control.


(Hassan Mehmood Yousafzai)
Additional Secretary (A)

Additional Secretary-II, Prime Minister's Office Islamabad.
DGPC U.O. No Expl-7(3) (TIP Complaint ENI)/2022, dated 23rd September, 2022

Copy to:
Joint Secretary to Finance Minister,
Q Block, Pak Secretariat,
Islamabad.

w.r.t FMO's U.O No. 1(1)-JSFM/2022-PM455
dated 16th September, 2022.

HEADLINES

April 19, 2022

Pakistan to file for damages on default by Eni, Gunvor

By

Ahmad Ahmadani



Pakistan is mulling to approach London Court of International Arbitration (LCIA) to claim damages from the Italy-based Eni and Swiss Gunvor for their failure to meet their contractual obligations, depriving the country of essential fuel supplies.

According to sources, Pakistan LNG Limited (PLL) has placed Request for Arbitration (RFA) before the petroleum division on March 29, 2022 for appointment of legal counsel for arbitrational proceeding in the LCIA. And, petroleum division has approved allocation of British pounds ten thousand (GBP 10,000) to PLL for making payment to LCIA in respect of Arbitration No 225405.

Sources said that Eni has so far failed to supply five LNG cargoes while Gunvor failed to prove seven LNG cargoes to the country and now Pakistan is all set to approach the London Court of International Arbitration (LCIA) for collection of approximately Rs 48 billion worth damages from Eni and Gunvor over their failure in meeting the contractual obligations.

Pakistan will claim collection of minimum Rs4 billion damage for each LNG cargo and in this way approximately Rs20 billion worth damage collection from Eni and Rs28 billion damages from the Gunvor in the LCIA, said sources.

They added that this would be in addition to the 30 per cent penalty on every default shipment since November 2021.

“Pakistan has faced billion rupees worth economic loss as the country has to utilize expansive fuel for power generation purposes in the absence of LNG supply from both Eni and Gunvor”, said the sources.

Sharing details of LNG supply failure by both Eni and Gunvor, sources said that the Eni for the first time partially defaulted in January 2021 when it provided half LNG cargo and then it failed to provide cargo in August 2021. It also committed default in November 2021 and now it has committed the latest default for March.

Similarly, Gunvor also defaulted in November 2021 and now in March 2022 too. However, it sought force majeure every time to avoid the penalty.

Sources also said that the latest default by both companies (Eni & Gunvor) has forced Pakistan to procure LNG from the spot market at a high price of \$25.12 per Million British Thermal Unit (MMBTU). And, Pakistan, in response to the emergency, had issued tender on February 17 for two LNG cargoes, one for March 2 to 3 and the other one for March 10 to 11 and resultantly Pakistan got two bids for spot LNG cargoes for only one-time window of March 10 to 11. However, it (Pakistan) got zero response from the LNG trading companies for providing a spot cargo for the window of March 2 to 3.

As per sources, the shortage caused by the defaults has been taking its toll on the country's resources as Pakistan opted for the expensive diesel to generate power.

They added that in January, Pakistan's diesel-based power generation surged to the highest in seven years, whereas the LNG-fired output dropped to the lowest in two years. Similarly, the furnace oil (FO) sales grew 14 per cent and high-speed diesel (HSD) sales surged 10 per cent in the eight months of FY22 (July-February 2021/22), amid LNG shortage and higher electricity generation