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Finance & Banking Support for Foreign Trade

Intrudoction

Although the loss of revenues from oil coupled with the cutting-off of Iran from the international banking system has adversely impacted Iran's economy and its international trade, both Iran's public and private sectors have been able to mitigate considerably the negative economic impacts of the sanctions, particularly in the area of trade. As such, while Iranian public and private sectors have found and negotiated ways for Iran's L/Cs have become operative with and accepted by a number of Asian and European banks and facilitated transfer of funds, the use of barter trade has been on the rise. Currently, a number of banks from those countries which are the main buyers of Iranian oil as well as banks in Europe and other regions accept Iran's L/Cs and transfer of funds for all or some non-sanctioned goods and services (list of such banks should be requested from the relevant embassies and authorities).

Iran uses its deposited oil sales in certain countries (particularly India, China and Korea) that trade with Iran to pay for the imported products from these countries through bilateral agreements facilitating for conversion of part of the oil proceeds to local currencies of these countries.

In addition to prioritization of goods into 10 groups according to their importance for the import requirements of the country, (with priority diminishing down the scale from group 1 to group 10) as detailed and listed in the previous section, the type of foreign currency required by the importer as appearing on the proforma invoice also plays a very important role in the allocation of FOREX to the applicants. The FOREX Transaction Centre at the Ministry of Industry, Mine & Commerce, which introduces the approved applicants to the banking system for allocation of official FOREX, generally encourages importers to bring proformas in Yuan, Rupees and WON which are more readily available to Iran through sales of crude oil to China, India and South Korea. The allocation of such currencies is also relatively much faster. In comparison, even UAE Dirham is not as easily allocated and any allocation made is at a premium. Further, the chances of allocation of USD and EURO are relatively lower.

Previously goods and raw materials of factories were imported by making a down
payment in range of %10 to %20: however, the down payment has increased to as high as %135 in order to cover the risk of currency fluctuation by the banks. This places a huge burden on industry and importers.

The Central Bank of Iran and the Iranian public sector Banks which are on the sanction lists of the UN and/or EU are Sepah bank Saderat bank, Melli bank, Mellat bank, Tejarat bank, Refah bank, Bank of Industry & Mine, Sina Bank, and the Export Development Bank. The US has also imposed sanctions on Iranian private sector banks and the other public sector banks. Public Sector Banks which are not on the EU sanction list include Bank of Agriculture and Maskan bank (Housing Bank). None of the private sector banks also currently appear on the EU sanction list. The following banks are particularly recommended which are the biggest and the most reputable amongst the private sector banks: Parsian bank, Eghtesad-e-Novin bank, Pasargad bank, and Saman bank. These banks have strong international departments and have rapidly expanded their networks of correspondent banks and cooperation bases abroad through which and their Exchange Bureau, companies can get L/Cs and fund transfers established and achieved with destinations and recipients abroad, but with more relative ease with China, Russia, Turkey, South Korea, Malaysia, India and Japan.

Under sanction conditions, Exchange Bureau companies of banks and licensed Bureaus of Exchange play a very important role in arranging financial transactions and transfer of funds and foreign exchange for imports and the other requirements of the country.

Due to the sanctions and restrictions imposed on a number of Iranian banks by the UN, US and EU regarding the international financial system, there are many European banks including and particularly major banks which no longer work with any Iranian banks due to the pressures from the US and their exposure to the US even those banks which are not on the sanction list of any of the aforementioned. The US has penalized and fined some major European and far eastern banks with substantial business activities with Iran including UBS, Credit Suisse, ABN-AMRO, Lloyds-TSB, Barclays, HSBC, Standard Chartered, Deutsche, Tokyo-Mitsubishi, etc. It should be mentioned that some banks in EU countries act more conservatively than others due to their own internal policies in respect to transactions with the Iranian banking system. Some European banks work with those Iranian public and private sector banks which are not in the UN and EU sanction lists and accept L/Cs and funds transfers from such Iranian banks for trade of all or some non-sanctioned goods and services. Generally, these banks tend to be the smaller and regional banks with no significant exposure to the US (their list should be requested from the relevant embassies and authorities).

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In order to ensure that the L/C and funds transfer can be successfully executed from Iran for the benefit of a foreign supplier andto ensure that the banker of the foreign supplier are prepared to work with the Iranian bank used by the buyer, it is very important to ensure that the correspondent/intermediary banks used by the banker of the foreign supplier would also be prepared to work with the Iranian bank being used by the Iranian buyer for the opening of L/C or funds transfer. Otherwise, since most foreign suppliers have a number of bankers which would be prepared to work with Iranian banks and which may also be used correspondent/intermediary banks which also work with Iranian banks, the financial transaction can be executed successfully between all the banks involved by switching from one bank to another. It is recommended that the foreign suppliers and Iranian buyers check in advance the above-mentioned issues with their bankers and the embassies and joint chambers of commerce and other authorities as necessary in order to ensure that they are using the right network of foreign and Iranian banks for successful implementation of their transaction.
Due to the banking restrictions imposed by the UN, US and EU on Iran and difficulties experienced in certain instances in opening and making payments through L/Cs with some countries as well as being not accepted the Iranian L/Cs by some suppliers, full advance payment transfer method is being used more in comparison to the past in respect to some foreign purchases by Iranian buyers.
Due to the EU Council decision regarding prohibiting EU companies from providing specialized financial messaging services to Iranian banks under EU sanctions, SWIFT discontinued its communications services to those Iranian financial institutions that are subjected to European sanctions effectively cutting them off from the global financial system in mid-March 2012. SWIFT services remain available to all Iranian private sector banks and Bank of Agriculture and Housing Bank of the public sector.

Bank Guarantees

When a foreign company wishes to participate in a bid or conclude a contract for supplying of goods, works and/or services, the Iranian client may require its foreign supplier/contractor to provide certain bank guarantees. There is actually no mandatory provision requiring Iranian private sector companies to demand such guarantees from foreign companies. Therefore, it depends on them to decide whether ask for a guarantee or not. However, requesting such guarantees
are mandatory while dealing with state enterprises, governmental companies and public bodies.
The range of bank guarantees that may need to be provided by foreign suppliers/contractors in connection with governmental and public sector tenders and
contracts are mainly four types: bid bonds, performance bonds, good performance bonds and down-payment guarantees.

Bid Bonds

Bid bonds refers to a security given by a party intending to participate in a tender. The bond should be drafted in such a way so as to secure that its amount may be called by the Iranian party, without proof of loss or taking any legal or administrative formalities, if within the validity period of the guarantee, the bidder withdraws its bid or refuses to enter into contract or fails to provide performance guarantee. The amount of bid bonds is normally between %2 to %5 of the estimated total price of the relevant contract.

Performance Bonds

In construction, EPC and installation contracts the contractor is required to provide a performance bond guarantee at the time of contracting. The amount of the performance bond is %5 of the total contract price for construction contracts, transport contracts and sale of machineries. In other cases, such as installation contracts the amount is %10 of the total price of the contract. Performance bond shall be released after temporary delivery of the subject matter of the contract and upon the issuance of the certificate of temporary delivery.

Good Performance Bond

In consultancy, management and research contracts %10 of every payment to the service provider will be withheld and kept in a depository account as the good performance bond. Similarly, in construction and transport contracts %5 of every payment to the contractor will be withheld and kept in a depository account as the good performance bond. The amounts withheld as good performance bond may be paid back to the contractors or service providers against provision of an equivalent bank guarantee. %50 of the good performance bond will be released at the time of temporary delivery of the subject matter of the contract and the remaining %50 will be released upon the expiry of the guarantee period at the time of final delivery.

Down-Payment Guarantees

Governmental bodies and state companies are permitted to pay up to %25 of the price as down-payment (in practice this percentage is something ranging from %10 to %15 in hard currencies) upon receiving a down-payment guarantee.

Down-payment will be proportionately amortized from actual payments made to the foreign contractor and therefore the corresponding amount of down-payment guarantee may be released.

The types of guarantees acceptable to state enterprises/bodies such as bank guarantees, promissory notes, shares, partnership papers (debentures) and so on, are set forth in detail in the Bylaw of Guarantees for Government Transactions approved by the Council of Ministers dated November 26th, 2003, in implementation of the Law of Bylaw of Government Transactions. It should be noted that, only local contractors and service providers may benefit from the range of guarantees which may be placed and therefore foreign contractors or service providers are required to provide bank guarantees in every case.

In respect to the bank guarantees that are issued by foreign banks, the Central Bank of Iran (CBI) issued a Directive No. AB/2104 dated 1987) 1365/10/14) which prohibited the acceptance of direct guarantees from foreign banks by Iranian parties without a back-to-back guarantee issued by an Iranian bank. However, Clause 11 of the said Bylaw provides that the issuing foreign bank should be in the CBI's approved list of the foreign banks.

In pursuit of reducing exchange controls, transparency and simplification of regulations as well as consideration of the need for the marketing and provision of services under competitive conditions by the banking system, the CBI issued another Directive in September 2005 (No. 1112/60 dated 1384/7/4) to amend the provisions of the Directive No. AB/2104 stage by stage. At the first stage, the CBI agrees to the cases as detailed below:

a. The acceptance and advice of direct foreign bank's guarantees relating to letters of credit and contracts involving FOREX is allowed at the discretion of the beneficiary, provided that the required foreign currency is secured through the beneficiary's own hard currency and the beneficiary of the guarantee accepts all the consequential responsibilities.

b. The acceptance and advice of direct bank's guarantee issued by Iranian banks, branches of Iranian banks abroad and units of Iranian banks is allowed, provided that the beneficiary of the guarantee accepts all the consequential responsibilities.

It is, however, unlikely given the wording of the latest Directive of the CBI that state enterprises assume the responsibility and accept guarantees issued directly by the foreign banks. They will continue to direct foreign contractors and service providers to an Iranian bank in order to obtain a bank guarantee through an Iranian bank. Consequently, the issuance of guarantees by foreign banks will also require the issuance of back-to-back bank guarantees by the Iranian banks , thus resulting in extra costs for the foreign suppliers/contractors and inevitably get built into the prices offered to the Iranian clients in the bids .

It is worth noting that no performance bonds or good performance bonds have been required by NIOC from international oil companies in buy-back contracts because they are regarded as a kind of foreign investment.