

WAPP Interconnection Line – CLSG (Ivory Coast, Liberia, Sierra Leone and Guinea)

I. Project’s presentation:

Within the WAPP (West African Power Pool), the governments of Ivory Coast, Liberia, Sierra Leone and Guinea have decided to cooperate in order to develop a regional high voltage transmission line called “Interconnection Line” in compliance with the ECOWAS Energy Protocol¹.

The objective of this project is to build an interconnection line between Ivory Coast, Liberia, Sierra Leone and Guinea through several cities². This line will include 2500 towers (1264 km of high voltage transmission line) and 12 sub-stations.

II. Project feasibility’s development:

Several technical and economic feasibility’s studies have shown that the Interconnection Line would be able to decrease (up to 50%) the cost of energy production within the countries involved in the project.

Moreover, the studies revealed that the project includes many significant social and economic externalities.

They have also shown that due to the poor and fragile economic state of the countries’ national utilities, it was not realistic to resort to procurement before launching a long and in-depth analysis on the conditions of implementation and operation of the line permitting to have the most efficient economic conditions.

Taking into account 1) the costs savings that the line will permit on the production costs, and 2) the tariff that the operator will bill to users for the energy transport, the investment on the line would be profitable if it is operated during a basis of approximately 30 years.

However, on the basis of regulatory due diligences, their practices and the developed risks matrix, it appears that such a project could not take the form of a classical concession scheme signed with a private investor, unless an institutional and legal framework identical to the four States (knowing that the four States have different social, economic and legal cultures) is put in place. It was intended that the framework could create or improve the overall procedures (SEIA,

¹ The objective of the WAPP is to establish a regional electricity market in West Africa through the judicious development and realization of key priority infrastructure that would permit the accessibility to economic energy resources, to all member states of the ECOWAS and help meet the energy needs of the ECOWAS citizen by providing least cost reliable and sustainable electricity supply for economic development.

² Man (Cote d’Ivoire) – Yekepa (Liberia) – Nzerekore (Guinee) – Buchanan (Liberia) – Monrovia (Liberia) - Mano (Liberia) – Kenema (Sierra Leone) – Bikongor (Sierra Leone) – Bumbuna (Sierra Leone) – Yiben (Sierra Leone) – Kamakwie (Sierra Leone) – Linsan (Guinee).

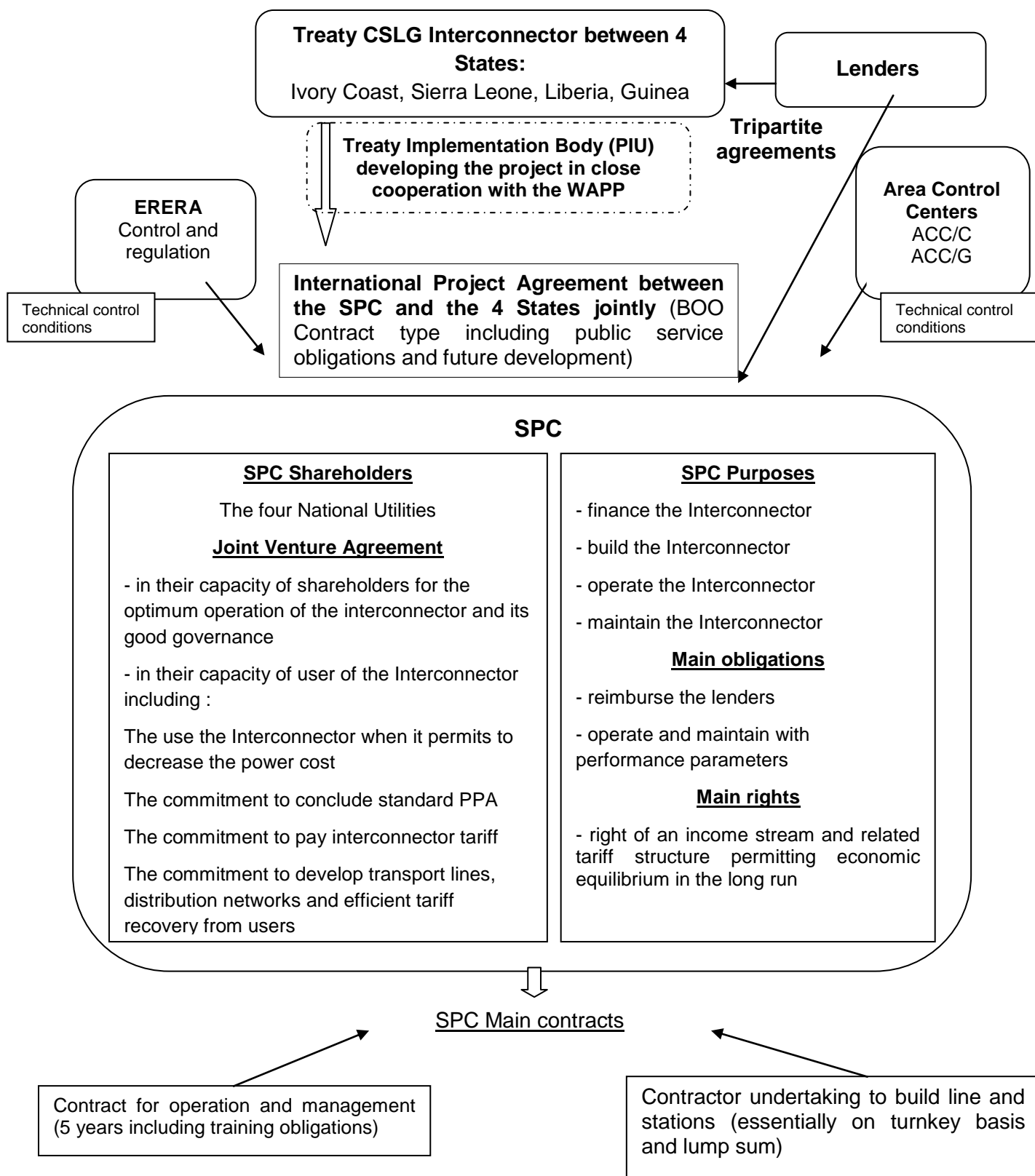
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land rules, expropriation, commitments of the Utilities and the States to favor the project, etc.) in the texts as well as in practice.

To permit the implementation of this project, the feasibility studies have resulted in the following conditions:

1. The investment and operation should be developed on a long term basis by an ad hoc company following commercial laws and benefiting of a set of guarantees (not only financial guarantees)
2. An agreement between the States which deals with several identified issues

The institutional and legal framework of the project is the following:



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The overall scheme takes into account the lessons learnt in regional power projects in Africa (in particular: CEB and SOGEM projects).

The major difference is to limit the role of the ad hoc company to the energy transportation (it does not deal with the activities of purchase and resale).

III. Steps of the Project's implementation:

1. A Treaty has been negotiated and signed between the four States (December 2011 – March 2012).

This Treaty creates, inter alia, a special purpose company (“Transco CLSG”) following commercial laws whose former stakeholders are the four national Utilities.

The Treaty establishes the main principles of an International Project Agreement to be agreed by the four States and the SPC.

2. The Articles of incorporation and the Shareholders agreement of Transco CLSG have been executed in March and June 2012.

3. The International Project Agreement (which contains various set of clauses similar to a public service concession) includes clauses permitting to the company to restore its financial viability and economic equilibrium if substantially affected and not in default. The IPA has been initialed July 5th, 2012.

Taking into account the particulars of the project which is similar to an institutional PPP, the term of the agreement is of 99 years.

4. The project is financed by a consortium of development banks: African Development Bank, World Bank, European Investment Bank and Kreditanstalt für Wiederaufbau (KfW).

5. The project is under final negotiation for financial close.

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▪ **ANNEX 1: MAIN ISSUES ADDRESSED IN THE TREATY**

Chapter 1: definitions and purpose

article 1. Definitions

article 2: Purpose

Chapter 2: institutional framework

article 3. Bodies of the treaty

article 4: Binding Nature and Enforceability

Chapter 3: incorporation and operation of the spc

article 5: Incorporation and operation

Chapter 4: construction and operation of the Interconnection Line

article 6: Project characteristics and obligations of member states

Chapter 5: international project agreement

article 7: Authority to implement the project

Chapter 6. Final provisions: implementation of the treaty

article 8: nature

article 9: waiver of sovereign immunity

article 10: judicial enforceability, non-compliance and disputes

article 11. withdrawal

article 12. amendments

article 13. ratification and provisional application

article 14. Entry into force

article 15. Language

article 16. registration

▪ **ANNEX 2: MAIN ISSUES ADDRESSED IN THE PROJECT AGREEMENT**

Article 1: Definitions

Article 2: Purpose

Article 3: Characteristics of the Interconnection Line

Article 4: Availability of land and other provisions relating to land

4.1 Grant of real property rights

4.2 Process for Grant of real property rights

4.3 Enforcement of real property rights

4.4 Safeguards

Article 5: Construction of the Interconnection Line

Article 6: Monitoring

6.1 Monitoring reports

6.2 Progress meetings

6.3 Provision of information

6.4 Site visits

Article 7: Operation and maintenance of Interconnection Line

7.1. Service obligations

7.2. General conditions for the performance of the public service

7.3 Adaptations and changes

Article 8: Regulations for the use of the Interconnection Line

Article 9: Ownership and property rights

Article 10: Employment provisions

Article 11: Authorisations and permits

- 11.1 Grant of Relevant Approvals
- 11.2 Applications by the SPC
- 11.3 Expedited applications
- 11.4 Avoidance of delay

Article 12: Financial conditions

- 12.1 Financing of the construction
- 12.2 Financial Viability of the SPC
- 12.3 Determination of the tariffs

Article 13: Report and presentation of the accounts

- 13.1 Report
- 13.2 Presentation of the accounts

Article 14: Accounting currency, opening of accounts and transfer guarantees

- 14.1 Accounting currency
- 14.2 Opening of accounts
- 14.3 Transfer guarantees

Article 15: Tax and customs provisions

Article 16: Force majeure, hardship, unforeseeable impediments

Article 17: Stability of the regulations

Article 18: Subcontracting and assignment

Article 19: Contribution to the development of the energy market

Article 20: Liabilities and insurances

Article 21: Term

Article 22: Default and coercitive measures

- 22.1 Default in providing service to users
- 22.2 Default by the SPC under the terms of this and other agreements
- 22.3 Default by the States under the terms of this Agreement
- 22.4 Duty to Mitigate

Article 23: Early termination

- 23.1 Grounds for termination
- 23.2 Consent of the DFI

Article 24: Consequences of Termination

- 24.1 Transfer of assets
- 24.2 Other Remedies
- 24.3 Survival of this Article
- 24.4 Indemnification

Article 25: Partnering and settlement of disputes

- 25.1 Partnering
- 25.2 Settlement of disputes
- 25.3 Interpretation and applicable law

Article 26: Entry into force