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Explanatory Note for a Bill Regarding the Incentives of the Green Hydrogen Projects

We, at Shehata & Partners Law Firm, have gained access to the prospective explanatory note for the bill concerning the incentives for green hydrogen projects in Egypt. Please find below an English translation of such an explanatory note:

- The Ministry of Electricity and Renewable Energy has developed the necessary plans and rules to open the way for the Egyptian and foreign private sectors, to develop green energy projects in the Arab Republic of Egypt, whether in the field of renewable energy or green hydrogen as they are considered the fuel of the future, given that they rely primarily on the renewable energies (solar - wind), in which the Ministry has succeeded to reach prices that are considered to be the most competitive prices in the world. This is in addition to developing the national electricity transmission network to deal with huge capacities with renewable energies and allocating large areas of land which are necessary for the renewable energy projects. In parallel, the national strategy for green hydrogen is currently being finalized.
- Many offers were received from local and foreign investors, and international financing entities, in order to implement the green hydrogen production projects in the Arab Republic of Egypt, especially in the Suez Canal Economic Zone, as well as in the northwest coast region, and Damietta, by using renewable energies.
- A standard - non-binding - memorandum of understanding has been prepared for green hydrogen projects to begin the studies on the projects, whose parties are (the Ministry of Electricity and Renewable Energy represented by the New and Renewable Energy Authority, the Egyptian Electricity Transmission Company, "the operator of the National Electricity Grid" (NREA - EETC), and each of The Sovereign Fund of Egypt (TSFE), and the General Authority for the Suez Canal Economic Zone (SCzone) as the latter is one of the areas that was chosen by the developers to establish a hydrogen production plant

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in it, and all of the above represent the First Party and the developer is represented as the Second Party.

- According to the terms of the standard memorandum of understanding, the project developer is responsible for securing the buyer of the green product (i.e., OFF-TAKER), which is produced by the project, and securing the green origin certificate (i.e., GREEN CERTIFICATE).

Based on the foregoing, 23 memoranda of understanding were signed with international and local alliances and companies, which are in the field of producing green hydrogen and its derivatives.

The Bill has six (6) Articles, in addition to the publication and entry into force Article, as follows:

Article No. (1):

This is the definitions Article, which clarifies and explains the definition of the words and phrases which are being used in this bill. This Article defines the competent minister being the Prime Minister and stipulates the definition of the term green hydrogen and its derivatives, as well as the definition of renewable energies. This Article also defines the developer, the project company, and the project agreements.

Article No. (2):

This Article specifies the scope of application of the Bill, whether in terms of time or in terms of the types of projects that are subject to its provisions. In terms of time, the Bill has stipulated its application to the projects whose agreements are concluded within a period of five (5) years from the effective date of the law.

In terms of the types of projects, this Article enumerated the types of projects subject to the provisions of this law, and they are of five types: the first, is the green hydrogen production plant and its derivatives; the second, is the desalinated water production stations, which allocates a minimum of 95% of their

production to be utilized in producing green hydrogen and its derivatives; the third, is the electricity production stations which produces from the renewable energy sources, that allocate a minimum of 95% of their production to feed the green hydrogen production plant and its derivatives and desalinated water production stations; the fourth, is the projects whose activities are limited to transporting, storing, or distributing green hydrogen and its derivatives which is being produced in the Arab Republic of Egypt, and the fifth, are the projects whose activity is directly limited to manufacturing the necessary production requirements or inputs for the factories referred to in Clause No. (1) of this Article. A Cabinet decision will be issued based on a proposal from the competent minister after taking the opinion of both the Electricity & Renewable Energy Ministry and the Finance Ministry.

The last paragraph of this Article also stipulates the application of the law on the future expansions of the projects, which were stipulated in the previous paragraph, which is defined as adding new assets that lead to an increase in the project's production capacity, whether through increasing the capital or increasing proprietary rights.

Article No. (3) (Project Company):

The first paragraph of this Article regulates the establishment of the developer's project company, and this is in accordance with the legal system to which the project is subject since the Bill comes only in order to stipulate and regulate the incentive package for these projects without regulating the projects themselves, in which it refers to the general rules that are in force and regulating the projects.

This paragraph also authorizes the establishment of one or more operational branches for the project company, and this is in accordance with the nature of these projects, in which the developer can establish one project company whose activities may include several projects from those described in Article 2 of the Bill. For example, the developer can establish the project company in the Suez Canal Economic Zone, and its activity may be the production of green hydrogen and its derivatives, as well as the activity may be the production of renewable energies in order to be utilized for the production of green hydrogen.

In order to implement this, the project company will establish renewable energy stations outside the geographical scope of the Suez Economic Zone, which requires approval of permissibility for establishing an operational

branch for the project company, provided that its tax treatment is subject to the same treatment as the main center, to prevent any double treatment issues.

Moreover, the second paragraph of the Article confirms that the project's implementation is through the project agreements, which were previously defined in Article No. 1 of the Bill which stipulates that the maximum limit for these agreements is fifty (50) years from the date of their conclusion.

Then the third paragraph of the Article comes, in order to organize the implementation of the future expansions of projects, where it has to be under an additional agreement attached to the project agreements after the Cabinet's approval and after taking the opinion of the Ministry of Electricity and Renewable Energy and the authority in charge of owning the land, and this is for the Ministry of Electricity and Renewable Energy to review the technical requirements of the required expansions as well as the ownership authority on the ground regarding the extent of the availability of the lands necessary for these expansions.

Then, the last paragraph of this Article comes in order to ensure that the project and its expansions will have the incentives, which are prescribed in this Law and throughout the validity period of the project agreements. This confirms the principle of legislative stability of these agreements, on the condition that the project's expansion agreements have to be concluded within a period of seven (7) years from the project's commercial operational date.

Article No. (4): (Tax Incentives):

This Article covers the established tax policies to attract such projects from all over the world without focusing solely on granting a tax exemption, which the project may not benefit from, considering the double-taxation treaties, that are concluded between Egypt and many countries.

It also considers that these incentives should be specific and clear, so that the developer can conduct or do economic and financial studies for his project in the shortest period of time, in a way that accelerates the conclusion of the project agreements and their implementation, which is the main goal of this law.

This Article comes with two paragraphs, the first paragraph consists of three clauses, clause No. (1) of which grants projects that are subject to the law a

cash incentive, provided that its value shall not be less than 33% and not to exceed 50% of the paid tax value with the income tax return generated from carrying out the project's activity or its expansions, as the case may be. This incentive will not be considered as a taxable income. This clause also specifies a time limit for disbursing this incentive from the Ministry of Finance, which is a period of 45 days from the end of the deadline specified for submitting the tax return. Otherwise, a delay fine will be due, that is going to be calculated on the basis of the announced discount rates by the Central Bank of Egypt on the first of January preceding the incentive due date.

A Cabinet Decision will be issued to specify the incentive categories referred to, and the granting conditions, based on a proposal from the competent minister after taking the opinion of the Ministry of Finance as the competent authority to implement this incentive.

Further, Clause No. (2), which decides to exempt the equipment, tools, machines, devices, raw materials, supplies, and means of transportation other than passenger vehicles necessary for green hydrogen projects and its derivatives from the Value-Added Tax (VAT). Moreover, Clause No. (3) comes to decide that the Value-Added Tax (VAT) will be at (zero%) for the exports of the green hydrogen projects and their derivatives.

In addition, the second paragraph of the Article stipulates that the Ministry of Finance's obligation is to bear the following to the public treasury:

- (1) The tax value on the built-up properties that is due, on the buildings of green hydrogen projects and its derivatives.
- (2) The stamp tax value, documentation, and notarization fees that are due on the incorporation contracts of the companies and entities and the facilities, credit, and related mortgage contracts, and land registration contracts that are necessary to establish the green hydrogen projects and their derivatives.
- (3) The customs tax value that is due on all imports necessary to establish green hydrogen projects and their derivatives, with the exception of passenger vehicles.

Article No. (5) (Non-Tax Incentives):

This Article comes with a package of non-tax incentives granted to green hydrogen projects and their derivatives which are subject to the provisions of this law, in addition to the tax incentives stipulated in Article (4), which are enumerated as follows:

1. Obtaining the single approval (i.e., **Golden License**) for the project company in accordance with the regulations contained in the Investment Law promulgated by Law No. 72 of 2017 and its Executive Regulations.
2. Allowing the project company to import, on its own or through others, what it needs to establish the project or expand it or operate it from raw materials, production requirements, machines, spare parts, and the appropriate means of transportation to the activity's nature, without the need to register the project company in the importer's register. It is also entitled to export its own products by itself or through an intermediary without a license and without the need to register the project company in the exporter's register.
3. Allowing the project company to use foreign employees within the limits of 30% of the total number of employees in the project, and this is during the first ten (10) years starting from the date of signing the project agreements.
4. Allowing the establishment of special customs ports for the project's exports and imports in collaboration with the Minister of Finance.
5. A 30% reduction from the value and categories fees, for the use of seaports and sea transport and fee services provided to ships in the Egyptian seaports, and the due amounts for the use of fixed and floating missions and facilities of the seaport authorities and the safety authority, liquid bulk activities, ship bunkering, and on the electronic services provided by the Egyptian seaports authorities.
6. A 25% reduction on the value of the usufruct right of industrial lands, which are allocated to establish a hydrogen production plant and its derivatives. Further, a 20% deduction on the right to use the storage warehouse lands at the ports, without prejudice to the annual increases for the usufruct right contracts and licenses, while adhering to any other regulatory rules established by the competent authority, that has jurisdiction over the lands.
7. Granting a grace period for the payment of the usufruct right of the project's industrial and storage lands and its expansions, allocated by the

competent authorities, so that payment begins from the project's commercial operational date, without calculating any interest and/or fines.

8. Determining the terms of the necessary licenses to implement green hydrogen production projects and their derivatives, with the same term as the right of usufruct with respect to the project lands, which shall not exceed fifty years.

The Bill took into account, the incentives granting, exemptions, and benefits stipulated in Articles (4) and (5), that these incentives, benefits, and exemptions should not be less than what is actually stipulated in any other laws.

Hence, the goal of the law is achieved, which is to attract the largest number of developers in the shortest period of the project agreement's conclusion and unify their treatment in terms of incentives, benefits, and exemptions that are prescribed, in order to accelerate the completion of the project's financial and economic studies.

Article No. (6): This is the Article that sets several conditions for granting the incentives that were stipulated in this law for the project. The aim is to regulate the granting of these incentives and to ensure the seriousness of the project and the ability to implement it. These conditions are as follows:

1. The project must begin the commercial operation within five (5) years from the date of concluding the project agreements.
2. The project and/or its expansions, as the case may be, has to depend on its financing on foreign funds which are financed from abroad for at least 70% of its investment cost.
3. The project must commit to utilizing the domestically made components that are necessary for its implementation, whenever they are available in the local market, with a minimum percentage of 20% of the project components.
4. The project shall contribute to the transfer and localization of modern and advanced technology and technologies to Egypt, with a commitment to develop and implement training programs for Egyptian workers.
5. The project company must commit to developing a plan for the development of the operating local areas by implementing the rules of social corporate responsibility in accordance with the provisions of Article 15 of the aforementioned Investment Law.

In conclusion:

The Ministry of Electricity and Renewable Energy confirms that the proposed Bill is a basic and an important step towards preserving what the country had previously done by signing memoranda of understanding with 23 developers. Further, there are 9 developers who have signed the framework agreements with the aim of encouraging serious developers to move forward towards signing the final agreements for their projects and actually implementing these projects, which will achieve the country's plan towards, transforming Egypt into a regional center for the production and exportation of green hydrogen.

**Minister of Electricity and Renewable Energy
"Dr. Muhammad Shaker Al-Marqabi"**