Political Risk Insurance (PRI): Role of PRI in Protecting Foreign Investments

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“Kiev Arbitration Days 2013”: Think Big!
Kiev, Ukraine – November 15, 2013
Part I – MIGA Overview

Members of the World Bank Group

- IBRD . . . 1944
- IDA . . . 1960
- ICSID . . . 1966
- IFC . . . 1956
- MIGA . . . 1988

Promotes FDI

GUARANTEES AGAINST NON-COMMERCIAL RISKS
Expropriation

- Government actions that deprive the guarantee holder of ownership or control of the guaranteed investment or deprive the guarantee holder of a substantial benefit of the investment, e.g., nationalization and confiscation, creeping expropriation and regulatory expropriation
Currency Transfer & Inconvertibility

- Inability to convert local currency to foreign currency
- Inability to transfer funds out of host country
Part II – Risks and Coverage

War & Civil Disturbance

- Damage / disappearance of tangible assets due to war or civil disturbance (including revolution, insurrection, coups d'état, sabotage, and terrorism)

- Business interruption
  - Total
  - Temporary (new coverage)
Part II – Risks and Coverage

Breach of Contract

- Failure of the host government to pay an arbitral award rendered against the host government for breach of contract
Part II – Risks and Coverage

New: Non-Honoring of Sovereign Financial Obligations

- Failure of the host government to pay a financial obligation when due

- Must be unconditional payment obligation, not subject to defenses
Part II – Risks and Coverage

Overview – Project Structure

Development Banks

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| Financing |\n
Commercial Bank

GoP (Secretariat of the Metro)

Metro Project

PANAMA
Part II – Risks and Coverage

NHSFO at a Glance

Government default → File a claim → Claim assessment → Claim complete → Payment of compensation/subrogation → Recover from government

Date of Loss

180 days Waiting Period (WP)

Claim incomplete
Part III – Claims and Pre-Claims

MIGA – Our value-added . . .

- Umbrella of deterrence – ability to resolve pre-claim situations to satisfaction of investor (consequently only six claims paid in 25 years)

- Pre-Claim Efforts:
  - Leverage with Host Countries, our members
  - Mediation helps clients by preventing cancellation of projects
  - “Good Offices” for impartial mediation
  - Claims paid when reasonable mediation fails
Thank you.

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