



## COMPANY STATEMENT TO SUKUK BONDHOLDERS

6 July 2017

### Introduction:

- Good morning, afternoon and evening to you all, and thank you for taking the time to join this call today. I'm Patrick Allman-Ward, CEO of Dana Gas and I am making this statement on behalf of the Company.
- During this call, I will
  - Address the Company's current financial position in the context of the ongoing arbitrations with the KRG and NIOC;
  - Provide an overview of the *commercial* rationale underlying the Company's proposed basis for restructuring the current Sukuk, and how we have seen the bond market evolve since 2012/2013;
  - We will then cover the legal background to the situation with regard to our current Sukuk, and why a *legal* Shari'a compliant restructuring is *also* necessary, which is in the interests of all concerned including the Sukukholders.
  - Finally we will outline our proposed framework of the restructured Sukuk, which we hope can be agreed as soon as possible on a consensual basis, before going on to describe what we see as the next steps in the process.
- There will be no Q&A at this time due to the existence of ongoing legal proceedings. However, if any Sukukholder has any questions, we would welcome receiving those in writing so that we can answer in the appropriate considered manner.
- While there has been some accurate media coverage on the situation, there has also been a great deal of inaccurate reporting resulting in confusion and misunderstanding regarding the Company's position and intentions with regard to its Sukuk. The purpose of this call is to set the record straight. In particular, the Company would like to draw your attention and correct two important points:
  - First, there have been repeated reports that Dana Gas has refused to engage with Sukukholders or with the Ad-Hoc Committee. This is untrue. We have, on several occasions, invited the Ad Hoc Committee to meet with us in person as principals, or at least to join us in a call. All our requests, which were made both before and after the Company took necessary legal action, were declined, which is why we decided to communicate directly with you, the wider Sukukholder group, through this call today.

- Secondly, there have been suggestions in the media that Dana Gas is using the unlawfulness of our Mudarabah Sukuk as a negotiating or pressure tactic. Again, this is not true. The commercial terms for a restructuring, and the need to address and correct the illegality of the current Sukuk, are two entirely separate and unconnected matters. If the Company had wanted to use the Sukuk's unlawfulness and invalidity to its advantage, our proposed commercial terms for the restructuring would have been far less favourable.

#### **The commercial aspects of a consensual restructuring: a different bond market landscape today**

- I will now discuss the changes in the Global Fixed Income market and the Company's financial position, which are the key reasons behind the Company's framework for the re-adjusted commercial terms of an offer which will be forthcoming.
- Beginning with the market environment, it is important to note that the global high yield environment has materially changed since 2012, with high yield index prices increasing by 25-30% over the period. Applying this to our Sukuk coupon rates would itself indicate a new issue yield of below 4%.
- Next, the Company's specific credit situation has significantly improved. The Company's asset value has dramatically increased since the 2012/2013 Sukuk refinancing. This is because we now have uncontested affirmations of our previously disputed contractual rights with regard to our two most valuable assets, namely the NIOC gas supply contract and the Kurdistan upstream contract. This has resulted from our highly successful international arbitrations, which have not only validated these contracts, but also resulted – in the case of the KRG – in an uncontested award to Pearl of \$2.1 billion of which Dana Gas' share is \$ 713 million. This is a major milestone, and has been key to the Company's assets being recently valued by a leading international independent sector expert at potentially US\$29bn, as recently announced.
- Our arbitration awards have not only affirmed the validity of our contracts in full, but have also crystallized the significant receivables due from the KRG, and opened up opportunities for the Company to sue for damages in both the KRG and NIOC cases. We have been advised that these damages could be tens of billions of dollars. We currently expect Tribunal awards in both these cases before the middle of next year.
- Whilst in Egypt our contractual rights have never been challenged, we have, as have others in the Petroleum Sector there, seen our accounts receivable increase dramatically since the events of the Arab Spring in January 2011. The total amounts have fluctuated depending upon the Egyptian Government's ability to pay, but even after the recent and encouraging payments made in May and just recently, they still stand at over \$180 million.
- Hence put together, our accounts receivables from the KRG and Egypt amount to around \$900 million.
- However, there is obviously continued uncertainty with respect to the timing of our cash collections in both Egypt and Kurdistan. In both jurisdictions we have seen erratic collections and, in the case of the KRI, long periods in which collections dried up completely. Whilst we hope for the best in our collections, we need to continue to plan for the worst and this requires the Company to focus on short to medium term cash preservation to maintain our operations and safeguard our enormously valuable contracts and licenses, while we achieve collections either through enforcement or satisfactory early settlements with our host governments.
- The final point to be aware of is with regard to the Company's production. Thanks to the hard work of our operations teams, our production is at an all-time high of just under 70,000 boepd, and our year-end 2016 production puts us on a par with peers such as Tullow, Premier Oil and Genel. But we obviously have a great deal more upside potential in view of our declared 2P resources of over 1 billion barrels of oil equivalent.

- Dana Gas is therefore a very different Company compared to 5 years ago when the current Sukuk was put in place. These changed circumstances have resulted in a material change in the Company's operating environment, asset value and risk profile, which amply justify a revised commercial arrangement for the restructured Sukuk.

#### **Current Sukuk unlawful under UAE law and Shari'a principles**

- The Company will now briefly set out the background and detail as to why our current Mudarabah Sukuk is unlawful, which we announced in a disclosure to ADX and a press release on Tuesday 13<sup>th</sup> June, and how we only recently established this to be the case without any doubt.
- As part of our due diligence ahead of the Sukuk restructuring discussions, very material UAE law and Shari'a compliance issues with regard to the current Sukuk documents and instruments were identified by our legal advisors, who advised that these must be properly addressed and could not be ignored.
- When the Company's Mudarabah Sukuk was first issued in 2007, about 90% of Sukuk instruments then in existence were Mudarabah in structure.
- However, the further development and evolution of Islamic finance concepts and jurisprudence since our original Sukuk was structured in 2007, and re-structured in 2012/13, has resulted in the discrediting and abandonment of many of the features of our current Mudarabah Sukuk. The Sukuk market has simply evolved and no longer regards a pure Mudarabah structure such as ours as being Shari'a compliant and, in the case of the UAE, lawful. As a result, our 10-year old Mudarabah Sukuk is possibly the only one remaining in issue. There have been some exaggerated claims that the Company's actions have undermined the Sukuk market, but these claims are simply untrue. Each Sukuk has its own characteristics, and the Company is only taking action based on legal advice on the unlawfulness of its own specific current Sukuk structure which evidently does not apply to other perfectly lawful sukuk structures.
- In brief, the major issues with our current Mudarabah Sukuk include that it guarantees a fixed rate of return to certificate holders, it makes the Company responsible for any loss of capital, and it does not contain a mechanism to reconcile the fixed amounts paid to the certificate holders over time against the actual profit generated by the Mudarabah Assets, and finally any capital loss is not reflected in a reduction in value of the Mudarabah Assets. These terms make our current Mudarabah Sukuk contrary to Shari'a and unlawful under UAE law.
- There are many other deficiencies in our current Mudarabah Sukuk and this is not intended to be exhaustive but merely illustrative of the major ones. This reality is not an internal Dana Gas point of view but is based on 4 independent external legal opinions obtained as recently as the end of May after a thorough legal due diligence process. The fact that there is a serious issue to be tried was upheld in the judgment of His Honour Judge Waksman in the English High Court on the 5th July when he granted the continuation of an interim injunction.
- There are important consequences arising out of our current Mudarabah Sukuk:
  - 1) The first is that both further profit payments and original principal repayment would be unlawful, invalid and unenforceable. To be precise, under the current interpretation of our Mudarabah Sukuk structure, payments must be linked to profits realized from the underlying Mudarabah Assets, namely those of Dana Gas Egypt; and with regard to these, the Dana Gas parent company has actually significantly subsidized Dana Gas Egypt to meet the ongoing profit requirements.
  - 2) In addition, there is also the aspect, supported by the independent legal opinions provided to the Company, that the unlawful nature of our Mudarabah Sukuk means that the Purchase Undertaking is also unenforceable under both UAE law and English law.

- The Company has a responsibility to be compliant with both UAE law and with Shari'a. With respect to the latter, the Company declared itself in 2006 to be Shari'a compliant and this is the basis on which many of our 200,000 shareholders have bought shares. So when the problems with our current Sukuk were identified beyond doubt, we could not just ignore them: we were obliged as a public company to disclose them publicly and take steps to rectify them. This was one of the reasons we sought to have an initial discussion with the Ad-Hoc Committee under a confidentiality agreement, an invitation the Committee unfortunately declined.
- The reason why Dana Gas took primary legal action in the UAE courts is that the main agreement of our current Sukuk is the Mudarabah Agreement, which is governed by UAE law. While the Purchase Undertaking is subject to English law, it is part and parcel of the umbrella Mudarabah Agreement. It is also important to note that the adoption of English law in some of our Sukuk Transaction documents is on a non-exclusive jurisdiction basis, and does not exclude the UAE jurisdiction or courts.
- The Company has obtained protective injunctions against certain actions in courts in the UAE, British Virgin Islands and England which are necessary to protect the interests of **all** of our stakeholders. Primarily this is to prevent the agents of the Sukukholders from declaring an 'event of default' or 'dissolution event'. After our announcement on the 3rd of May when we requested the bondholders to form an Ad-Hoc Committee, much to our surprise and even before we could meet the Ad-Hoc Committee, the Company received communications from some of these agents, representatives of the Sukukholders that greatly concerned us, alleging that the announcement itself could be an Event of Default.
- This was of particular concern for us in the context of the unnecessary actions taken by the representatives of the Sukukholders during our last restructuring in 2012, who triggered an unjustified Event of Default even whilst final negotiations between the then Ad-Hoc Committee and the Company were continuing in good faith. The declared, but unjustified, 2012 Default has caused the Company lasting damage.
- Given the billions of dollars of asset value at stake, and faced with draft letters alleging an Event of Default from the Trustee, the Company had no choice but to take pre-emptive action to protect that the Company's assets and value.
- These injunctions do not prevent an agreement for a restructured Sukuk from being reached. The Company reiterates its intention to agree a reasonable and fair outcome with our Sukuk investors on a consensual basis.

### **Principles For A Deal**

- These remarks so far have outlined the basis upon which the Company believes our Sukukholders can come to agreement on a sensible and mutually beneficial deal going forward.
- First and foremost, the commercial terms of the restructured Sukuk need to be brought in line with current Sukuk market conditions and take into account the greatly improved financial situation of the Company, while recognizing its need to maintain the necessary financial strength to realize the enormous value of its assets and to sustain itself through the short- to medium- term cash collection challenges that the Company faces until it recovers its affirmed receivables.
- Accordingly, our intention is to price a replacement Sukuk instrument in a manner consistent with current market yields and in a way that reflects the significant increase in the value of our underlying assets following our successful arbitration outcomes.

- Secondly, the structural and legal deficiencies in the existing Sukuk instrument need to be addressed. Our current Mudaraba Sukuk will need to be replaced with a new, Shari'a compliant and lawful Sukuk through an entirely new and different Sukuk structure. It is to the mutual benefit of both the Company and the Sukukholders that this new instrument is structured in such a way as to:
  - 1) Ensure that the Sukukholders benefit from an enforceable replacement instrument, while benefitting from assured periodic profit payments; and
  - 2) Ensure the Company issues a replacement instrument that is Shari'a compliant, given that Dana Gas has from inception publicly declared itself to be a Shari'a compliant company, and as such is accountable to its shareholders.

### **Outline of the Company's Proposal for a restructured Sukuk**

- Having outlined what Dana Gas believes are the important principles on which the Company's proposal is based, we would now like to share with you a high-level summary of certain of the likely terms of a deal which the Company believes is reasonable, balanced, and fair to all stakeholders. Please note that this is not an offer by the Company, the complete terms of a transaction will be forthcoming in due course.
  - 1) The new instrument would provide repayment to Sukukholders over time.
  - 2) The upcoming scheduled profit payments obviously cannot be paid as part of the current unlawful instrument, but would be accounted for as part of a mutually agreed new lawful instrument.
  - 3) The new instrument will need to be compliant with UAE Law, and Shari'a principles. As such, it would be a fundamental improvement to the current situation for Sukukholders.
- The Company would be looking to a new profit level reflective of the current market, to be structured partly in cash and partly as a Payment In Kind. Such profit payment rate and structure will be selected with consideration given to the Company's current risk profile and requisite liquidity.
- A bullet maturity of four years should, we believe, allow sufficient time for the Company to generate the necessary cash to pay down the restructured Sukuk whether from operations or through collections resulting from arbitration awards.
- In the light of the fact that the timing of payment of our receivables and any future awarded damages is unpredictable, and our genuine desire for the earliest possible settlement of the new restructured Sukuk, prepayments at our option could be made in whole or in part prior to maturity without penalty. This provides a path for early pay-down for the Sukukholders as excess cash is generated by Dana Gas.
- The new instrument would not be convertible. The original purpose of the convertible certificates was to incentivize long-term investors into converting into equity, but that clearly hasn't worked. On the contrary our experience with the local market is that traders simply convert opportunistically and sell the next day which has depressed the stock price. Consequently we believe there is no prospect that shareholders would approve a new convertible instrument.

### **The Process going forward**

- On the process going forward, the Company would like to emphasize that while this is obviously not a traditional restructuring, we want to see a sensible consensual process.
- The Company will look to communicate to the market the terms for a new restructured Sukuk instrument and the process for holders to participate in such a legal and enforceable instrument over the coming weeks.

- In the meantime and as soon as possible, Dana Gas would truly welcome a sensible dialogue with the Ad-Hoc Committee, and very much hopes that they will agree to engage with us.

### Conclusion

- To summarise, we hope we have set the record straight and addressed some of the misleading press coverage out there that states that Dana Gas is seeking to use the legal status of the current Mudarabah Sukuk as a negotiating ploy. This is categorically untrue. The steps we took to protect the Company's reputation and assets are in measure with the amount of value at stake, concerns raised by the aggressive communications and threat of default received from the Sukukholders' representatives, the Trustee and Delegate in late May, and the legal issues of the current Sukuk.
- We are seeking a consensual solution and to put a legal, enforceable structure in place for the benefit of all stakeholders. The commercial deal will need to reflect the improved bond market conditions and the Company's vastly improved credit since the current Sukuk was launched five years ago.
- It goes without saying that any deal needs to obtain the approval of Shareholders who, in the Company's view, will not accept unreasonable terms.
- That said, the Company is determined to act in the best interests of **all** its stakeholders, and remains open to direct, frank and constructive engagement.
- We appreciate that this was a lot of information to absorb all in one go, so we will be posting the script from this call on our website in both English and Arabic. The Company will keep updating the market as the process evolves.

Thank you for your attention. That concludes the call. Please remember that we would welcome receiving your questions in writing so that we can answer these appropriately.