

**About the Firm**

Rizvi, Isa, Afridi & Angell (“**RIAALAW**”) is one of the leading law firms of the region and has offices in Karachi, Islamabad and Lahore. The Firm is affiliated with Afridi & Angell, having offices in Dubai, Sharjah, and Abu Dhabi in the United Arab Emirates, New York and Beijing. In 2010, the firm also established an office in Kabul, Afghanistan.

Ever since its establishment, RIAALAW has been involved in providing the entire spectrum of legal services to various international and local clients across a broad range of sectors. The firm's practice areas include; cross-border transactions, energy, project and corporate finance, petroleum and natural resources, privatization, mergers and acquisitions, banking and finance, corporate advisory and structuring; pharmaceuticals, telecommunications, information technology, tax, insurance, construction and project development, international trade and trade remedy, intellectual property, litigation and dispute resolution.

RIAALAW has made a special mark in Corporate Advisory. The Firm advises multinational companies, local corporate groups, almost all major international financing agencies, and major foreign and local financial institutions, including the World Bank.

RIAALAW's partners have been involved in the majority of the project finance transactions undertaken in the private sector in the past 20 years. The firm has extensive experience of corporate and project finance transactions relating to the petroleum sector, refineries, gas transmission and distribution companies, mineral development, international gas pipelines, telecommunications projects, power plants, power distribution companies and infrastructure projects.

The firm's partners have acted in projects in Pakistan with a collective value of over \$15bn. These include acting as counsel to: Namfatt Corporation Berhad and Namfatt Concessions Ltd in the Shandra flyover project, which was the first infrastructure project on BOT annuity basis in Pakistan; Laraib Energy Ltd in

**Inside this Issue**

Message from the Senior & Managing Partner.....	2
‘In the News’.....	2
2010 Major Developments in Pakistan .....	2
Notable Projects .....	3
Constitutional Reforms .....	5
Courtroom News .....	6
RIAA-Afghanistan .....	8
Arbitration .....	9
Energy Sector .....	9
Insurance .....	11
Regulatory .....	12
Mergers & Acquisitions .....	12
Financing .....	12
International Trade Law .....	13

the first hydropower IPP in Pakistan, AJK in the first ADB and IDB co-financing of any project worldwide and the first IDB private sector financing in Pakistan and The Hub Power Company Ltd on the 213MW Narowal power project, which is the first power station to be financed by the private sector in South Asia and listed on the Karachi, Lahore, Islamabad and Luxembourg Stock Exchanges.

RIAALAW has represented the interests of its clients in more than 800 litigation and arbitration matters, and is recognised as one of Pakistan's leading litigation firms. The firm represents its clients at all levels and in all appellate jurisdictions, including the Supreme Court of Pakistan. RIAALAW has undertaken international arbitration work in Pakistan, London, Brussels and Singapore. RIAALAW also represents its clients before authorities such as the Federal Board of Revenue and the Competition Commission of Pakistan, as well as customs, excise duty, sales tax and income tax authorities.

As a member of the Lex Mundi, world's paramount association of independent law firms, RIAALAW has access to 160 leading firms all around the globe on immediate basis.

**'In the News'**

RIAALAW provides clients with cost-effective, time-efficient legal services to the highest international standards. The firm provides first-rate legal services anywhere, at any time, through the constant availability of its partners, fast turnaround and individual management of clients.

This very dedication and commitment has led RIAALAW to be chosen as the winner of the *Corporate International Magazine 2010 Legal Award* for "Corporate Law Firm of the Year in Pakistan".

**Message from the Senior & Managing Partner**

*"We have witnessed another successful year and thanks to the dedication and expertise of our team we hope to continue excelling as one of the leading law firms in the region. Our repute for high standards and consistent quality of work is illustrated once again by the loyalty and trust reposed in us by our clients. We proudly continue to provide legal services catering specifically to the needs of our clients and we look forward to achieving new heights of success in the years to come."*

**2010 MAJOR DEVELOPMENTS IN PAKISTAN**

***Harrasment Act 2010***

The 'Protection against Harassment of Women Act 2010' signals Pakistan government's commitment to ensuring equal rights for men and women in accordance with the Constitution. Sexual harassment is one of the biggest hurdles faced by working women, preventing many from working to get themselves and their families out of poverty.

The Act aims at creating a safe working environment for women that is free of harassment, abuse and intimidation with a view towards fulfillment of their right to work with dignity. It requires all public and private organizations to adopt an internal Code of Conduct and a complaint or appeals mechanism aimed at establishing a safe working environment, free of sexual harassment, intimidation and abuse for all working women, with a view to enabling higher productivity and better quality of life at work.

Under the Act each organization shall constitute an Inquiry Committee, comprising of three members - including one female member, within 30 days to enquire into complaints. Punishment for the guilty, or violators of a code of conduct, will range from a censure to dismissal to an unspecified fine under the law.

***Islamabad High Court***

The parliament through the 18th constitutional amendment approved the establishment of the High Court in Islamabad and passed the relevant rules and laws. The Islamabad High Court started functioning again on January 4<sup>th</sup> 2011, over 17 months after it was declared unlawful by the Supreme Court. The high court in the federal capital was first established in February 2008 but was abolished in July 2009 as it was earlier established through a presidential ordinance under the provisional constitution order ("PCO") of 2007.

The proposal by the government to establish a Federal High Court in the Islamabad Capital Territory deserves to be welcomed. It will fill a judicial void in the region since Islamabad does not come under the jurisdiction of either the Punjab or any other province. Legal community in Islamabad had long been demanding establishment of a high court in the federal capital as due to its absence matters relating to the federal government were being challenged in the Lahore High Court. In fact, until now citizens seeking legal redress and the city's lawyers wanting a lucrative practice have had to fall back on the Lahore High Court. Once established, the Federal High Court will be able to reduce the burden on the Lahore High Court, since it will then be possible to divert to it thousands of appeals and cases filed by Islamabad-based litigants. Besides, lawyers and judges with an Islamabad domicile will also be able to rise and become high court judges, something they were not previously eligible for, since the city does not fall under the jurisdiction of any province.

## **NOTABLE PROJECTS**

### ***Inter State Gas System (Private) Limited***

RIAAALAW is acting as legal counsel for Inter State Gas Systems (Private) Limited (“ISGS”) in relation to the development and negotiation of various agreements relating to the US\$ 7.6 billion Turkmenistan-Afghanistan-Pakistan-India Gas Pipeline Project (“TAPI Project”) and the US\$ 7.5 billion Iran-Pakistan-India Gas Pipeline Project (“IPI Project”). RIAALAW has advised ISGS in respect of the applicability of US Sanctions under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 and the Iran Sanctions Act of 1996 and is currently acting as counsel for ISGS in relation to its negotiations with ILF Beratende Ingenieure GmbH for the procurement of consultancy services in relation to IPI Project. RIAALAW is also currently acting as counsel in relation to the negotiations and drafting of the host Government agreements in relation to the TAPI Project.

### ***Pakistan National Shipping Corporation***

RIAAALAW advised Pakistan National Shipping Corporation (“PNS Corporation”) in arranging syndicated dual tranche structured finance facilities with Standard Chartered Bank and other Syndicate members for a sum of Rs. 10.3 Billion for purchase of dry cargo oil tankers. The facility also included issuance of Privately Placed Term Finance Certificates for an amount of Rs. 1.3 Billion. RIAALAW was engaged in the structuring of the facilities, finalization of all finance documents and as advisor in relation to corporate compliance on behalf of PNS Corporation. RIAALAW also advised PNS Corporation in arranging a cross currency swap of Rs. 10.3 Billion with Standard Chartered Bank under the 2002 ISDA Master Agreement.

### ***PREMIER Oil***

Demerger of Premier Oil and Kufpec, the PKP joint venture, resulted in the creation of a new company PKP Exploration 2 Limited (“PKPEL 2”) and with allocation of 18.75 % working interest held by PKP Exploration Limited (“PKPEL”) being evenly distributed between the two companies PKPEL 2 and PKPEL. RIAALAW drafted the supplemental agreements in order to include the new party in all

the agreements. Supplemental Agreements in Zamzama, Qadirpur and Bhit and Bhadra field were drafted by RIAALAW for the Gas Pricing Agreements (“GPA”), Gas Sales and Purchase Agreement (“GSPA”), Gas Pipeline Agreement, Condensate Sales Agreement and Facilities Side Letter Agreement.

RIAAALAW is also assisting Premier in their Qadirpur Gas Pricing Issue with OGDCL. The Price Determination Authority as per the Concession Agreement is DG Gas, however, with the new OGRA Gas Price regulations 2009, OGRA has been made the new Price Determining Authority this matter is still pending.

Qadirpur Lease expires in 2012. RIAALAW assisted Premier in drafting the Supplemental Agreement to the Qadirpur Lease, whereby the lease period is extended for five years.

### ***EVEREST Gold Inc.***

Everest Gold Inc. (“Everest”) a Canadian mining company, bearing four Exploration Licenses in Balochistan are RIAALAW's new clients in the mining sector. Everest has two Exploration Licenses in its name, and two Licenses are held in trust for Everest by Golden Enterprises (“Golden”) and East & West Indenting Corporation (“EWIC”). For the purposes of assigning the Licenses held in trust by Golden and EWIC, a locally incorporated company by the name of Everest Copper & Gold (Private) Limited (“ECGPL”) was incorporated.

RIAAALAW assisted Everest in the incorporation of the new company ECGPL, and drafted a Carry Agreement recording the intentions of the parties to form a new locally incorporated company and assignment of the two Licenses held in trust for Everest to the new company ECGPL.

After the execution of the Carry Agreement, and with the incorporation of the new company ECGPL, RIAALAW also drafted the Deed of Assignments and Applications under the Balochistan Mineral Rules 2002 for assignment of the Licenses held by Golden and EWIC to ECGPL.

### ***ISEC***

Mari Gas Company Limited (“MPGCL”), Petroleum Exploration (Private) Limited (“PEL”) and International Sovereign Energy Corporation (“ISEC”)

(collectively referred to as the “**Working Interest Owners**”) being parties to the Sukkur Concession Documents (comprising of the Petroleum Exploration License, Petroleum Concession Agreement, and the Joint Operating Agreement, all dated April 20, 2006) (the “**Concession Documents**”) held 50%, 35% and 15% Working Interests under the Concession Documents respectively.

MGCL as operator of the Sukkur Block raised certain cash calls with respect to the approved work programme and budget under the Concession Documents, relating to the drilling of exploration wells and EWT project. However, ISEC remained unable to settle these cash calls.

Consequently, MGCL issued a default notice to the Working Interest Owners. MGCL exercised its right of forfeiture of ISEC's share of Working Interest proportionate to MGCL's Working Interest (i.e. 8.8235%) due to continuous delay in payment of its share of cash calls. PEL also exercised its right of forfeiture of ISEC's share of Working Interest proportionate to PEL's Working Interest (i.e. 6.1765%) due to continuous delay in payment of its share of cash calls.

RIAALAW being the legal counsel of ISEC, filed two Civil Suits in the court of Senior Civil Judge, Islamabad, and an interim injunction was granted in favour of ISEC, and the matter was admirably stalled for a period extending over [eight] months.

After becoming frustrated with the situation, MGCL and PEL jointly, separately and severally became desirous to bring to an end the ongoing litigation, and entered into good faith negotiations with the objective to arrive at a mutually acceptable and amicable out of court settlement.

As a consequence of such negotiations, the Parties concluded an amicable settlement resolving all outstanding disputes, claims & counterclaims that they had against each other on account of various disputes and disagreements arising out of or in connection with the subject matter of the litigation.

#### ***Pakistan State Oil***

RIAALAW finalized Rs.1 Billion Murabaha Facility for Pakistan State Oil (“**PSO**”). PSO is the largest oil marketing company in the country and is

currently engaged in storage, distribution and marketing of various POL products.

#### ***International Resource Group Power Distribution Improvement Programmeme***

RIAALAW is co-leading the US\$ 60 million United States Agency for International Development (“**USAID**”) initiative of Pakistan Distribution and Improvement Plan. This program will be implemented in two phases. RIAALAW has been awarded an incrementally funded subcontract Task Order under the Energy II IQC, Pakistan Power Distribution Improvement Programme (“**PDIP**”) task Order awarded to International Resource Group (“**IRG**”) by USAID.

RIAALAW as the IRG Task Force and in collaboration with USAID and the Ministry of Water and Power (“**MoWP**”) have been assisting the IRG team in developing action plans covering the participation of MoWP and National Electric Power Regulatory Authority (“**NEPRA**”) in PDIP. RIAALAW as its first task under the contract with IRG prepared a very comprehensive report covering the legal basis and authorities of NEPRA policies and activities, conserving the regulation of the management and performance of distributing companies (“**DISCOs**”) and the fixing of their tariffs. In the report, special attention was given to NEPRA's management and operations, legal basis for the appointment of its Chairman and members, how its budget is funded and its role in establishing performance requirements for DISCOs and fixing and amending relevant electricity tariffs and fees including tariffs and fees for electricity purchased by DISCOs. The report has a number of recommendations and revisions for NEPRA's existing legal framework, polices, regulations and practices required to improve the performance of the DISCOs.

Further RIAALAW has reviewed the Performance Agreements of the DISCOs with the MoWP and have commented on the same. RIAALAW is assisting the IRG Team and the MoWP and providing them services on a daily basis. One of RIAALAW's team members provides full time legal assistance the MoWP along with the IRG Team and has been moved to the office of MoWP.

RIAALAW will be involved in further designing and concluding mutually acceptable Memorandum of Understanding covering the respective roles of DISCOs, NEPRA and the MoWP.

**OPIC**

RIAALAW has been negotiating finance and security documents on behalf of Overseas Private Investment Corporation (“OPIC”) and providing advice in relation to tax and other legal implications of their finance arrangements. RIAALAW is acting as counsel for OPIC in relation to financing provided by OPIC to Towershare (Pvt.) Ltd for the development, construction and licensing of up to 140 telecommunication towers to support mobile and fixed network telecommunication operators in Pakistan. RIAALAW is also acting as counsel for OPIC in relation to finance worth US\$ 9.89 million to SSJD Bioenergy Limited for a 12 MW power plant project on Build Operate Own Terms, based in Sindh, Pakistan. The Project will use biomass, such as bagasse, cane trash and rice husk as fuel sources for power generation.

**Andritz**

RIAALAW is currently providing corporate advisory services to Andritz, world renowned manufacturers of technically sophisticated

machinery, in relation to enforcement of license and arbitration agreement between foreign entities and the ensuing legal requirement and implications.

**Other Notable Achievements**

In addition to the afore-stated contentious matters, RIAALAW also drafted the **Education City Bill** for presentation to the Sindh Assembly. This is a bill “to acquire, consolidate and designate land for the provision of education and health services; to utilize, identify, regulate and protect the land, to license and monitor building activities; to provide for the establishment of an autonomous regulatory authority and other related matters.

RIAALAW has been asked to prepare a memorandum in light of proposed United States legislation that seeks to substantially broaden the **Iran Sanctions Act of 1996** in order to determine the applicability of the proposed legislation on the purchase of natural gas from Iran, and the possible impact of the proposed legislation on Interstate Gast Systems (Pvt.) Limited and its shareholders, i.e Sui Southern Gas Company.

**CONSTITUTIONAL REFORMS 2010**

The 18th Amendment of the Constitution of Pakistan was given assent on 19 April, 2010, removing the power of the President of Pakistan to dissolve the Parliament unilaterally and renaming 'NWFP' to 'Khyber Pakhtunkhwa'. The amendment transfers greater authority to the parliament and prime minister. Neither president nor prime minister will have a direct role in judicial appointments. The appointments will instead be handled by a two-tier systema Judicial Commission. The Amendment takes important steps toward resolving the tensions between central government and the provinces over the distribution of authority and revenues through devolution of authority and a strengthened role for the Council on Common Interests, a joint federal-provincial forum. This Bill is the first since 1973 to decrease the power of the President.

The 19th constitutional amendment was assented on 1st January, 2011. The fresh amendment seeks changes in a two-pronged mechanism for appointing judges in the superior courts in light of proposals forwarded to the parliament by the Supreme Court in its order. Under this amendment, number of senior judges as member of the Judicial Commission has been raised from two to four. It also authorizes the Commission for suggesting the names of ad hoc judges for appointment in the superior courts instead of Chief Justice of the Supreme Court. It has been proposed in the Bill that in case of dissolution of National Assembly, the members of Parliamentary Committee will consist of the Senators only.

## **COURTROOM NEWS**

Civil litigation is considered to be the hallmark of the legal profession. In the year 2010, RIAALAW has not only represented notable financial institutions of the country and affiliates of foreign entities in commercial civil litigation but has also acted as corporate legal counselor and advisor for a number of national and international corporations. RIAALAW has handled a vast array of litigation relating to Banking Law, Family Law, Taxation and Insurance Law.

### ***NIB Bank***

In an internal enquiry NIB Bank found that its Cash/Customer Service Supervisor (“CSS”) in the Korangi Industrial Area Branch committed fraud by transferring an amount of over Rs.25 Million by making flying entries in computer record. An FIR was lodged with the CID Police Station under Section 420/468/471/34 Pakistan Penal Code r/w Sections 36, 37 (1) & (2) of the Electronic Transaction Ordinance 2002 (Cyber Crime) further read with Section 5(2) Prevention of Corruption Act-II, 1947. The case was challaned and RIAALAW assisted the prosecution before the Honorable Special Court (Offences in Banks) Sindh at Karachi.

During trial of about two and a half years RIAALAW had been successful in getting four bail applications of the accused rejected before the trial court and two bail applications and two Constitutional Petitions before the Honorable High Court of Sindh at Karachi. The Honorable Special Court finally held vide its detailed judgment dated 26<sup>th</sup> February, 2011, that the case against the accused has been established by the prosecution. They sentenced the same to undergo rigorous imprisonment for the period of seven (“07”) years and to pay fine of Rs.2 53, 69,486/- and in default of payment of fine he has to further undergo simple imprisonment for twenty one (“21”) months. It was further ordered that the amount if recovered from the accused shall be paid to the concerned bank. It was further ordered that the two cars belonging to convict, which were purchased by him from the fraudulent amount stood confiscated and should be disposed of according to law.

### ***Constitutional Petitions***

Amongst the notable cases, RIAALAW is

representing its clients in Constitutional Petitions challenging the leave granting provisions of the Financial Institutions (Recovery of Finances Ordinance) 2001 and the Punjab Rented Premises Act of 2009, in light of 18th Amendment to the Constitution and insertion of Article 10-A providing for the right to a fair trial. The issue before the Court in both the Petitions is whether the statutory provisions requiring the defendant to file a petition for grant of leave before the court is an infringement of the right to fair trial and due process. The Petitioners argue respectively in their cases, that the law denies them a fair trial as by first taking leave from the court they are left to the mercy of the court on whether they have a triable case or not. These Petitions are still being heard before the Court.

### ***FABER Industries***

On the civil side, in the case of FABER Industries S.p.A (Italy) (“**Faber Industries**”), a leading Italian company and manufacturer of gas cylinders, RIAALAW has advised Faber Industries in relation to the Compressed Natural Gas (“CNG”) Production and Marketing Rules, 1992 and the Mineral and Industrial Gases Safety Rules, 2010 and advised Faber Industries in relation to their license to import CNG cylinders into Pakistan.

Furthermore, RIAALAW has successfully obtained a suspension of the court order in a civil suit alleging defects in the CNG equipment. The case involved wide ranging and complex issues including OGRA's jurisdictional capacity and numerous procedural aspects of civil suits. Notably, the court agreed with the argument forwarded by RIAALAW and gave a clear ruling on a point which was previously regarded as a grey area in law.

### ***Adamjee Insurance Co. Ltd***

RIAALAW is defending Adamjee Insurance Co. Ltd. (“**Adamjee**”) in a civil suit filed by UIG (Private) Ltd. for, inter alia, declaration that it is entitled to the fire insurance claim pursuant to Adamjee's fire insurance policy. The fire insurance claim as prayed for in the suit is Rs.121,153,791/- besides a claim for money decree in the sum of Rs.77,228,000/- on account of loss of revenue/profit due to non-functioning of fire affected area and Rs.120,000,000/- on account of general damages. Adamjee denies the claim of UIG on the basis of the 'Joint Preliminary Survey Report' and asserts that the estimate of loss of revenue is outlandish and is a deliberate attempt to extort monies. UIG has filed an application for obtaining ad interim stay order against

Adamjee, which RIAALAW has been successful in defending. In reply RIAALAW has, inter alia, filed an application for return of the plaint for filing before the Insurance Tribunal being the proper legal forum for adjudicating disputes in relation to insurance policies.

***S.A.H Enterprises Inc.***

RIAALAW successfully represented S.A.H. Enterprises Inc. (a company incorporated under the laws of Panama) (“**S.A.H**”) in an appeal filed by the Export Processing Zones Authority before the Divisional Bench of the Sindh High Court, Karachi. The appeal was filed against an order (permanent injunction) obtained by RIAALAW for S.A.H., allowing the same to install heat sealing machines for heat sealing of PEVA poly-bags in its facility located in the Karachi Export Processing Zone. It is to be noted that the setting up of this facility by S.A.H. not only assists the local industry but earns valuable foreign exchange for the government on exports worth millions of US dollars.

***Mohammad Shafi Tanneries (Pvt.) Ltd.***

RIAALAW on behalf of Muhammad Shafi Tanneries (Pvt.) Ltd. (“**Mohammad Shafi Tanneries**”) (one of the largest tanneries in Pakistan) filed a civil suit and was successful in obtaining an ad interim stay order against the (1) City District Government Karachi (“**CDGK**”) and (2) Province of Sindh. CDGK contends that the land on which the tannery is built is its property and that Muhammad Shafi Tanneries are encroachers under the Sindh Public Property (Removal of Encroachments) Act, 2010. RIAALAW by obtaining an ad interim stay directing the parties to “maintain status quo” has succeeded in thwarting CDGK's attempt to unlawfully removing this tannery on pretext of being an “encroachment”. It is to be noted that in the present economic conditions, this tannery provides employment to hundreds of people and generates revenue for the Government in the form of direct and indirect taxes.

***Deewan Petroleum Limited***

We filed an Intra court appeal (“**ICA**”) for a writ petition filed by Deewan Petroleum (Private) Limited (“**DPL**”), for our client, the Ministry of Petroleum & Natural Resources (the “**Ministry**”) at

the Lahore High Court, Lahore Bench (“**LHC**”), which related to a dispute between the Ministry and DPL, OGRA and DG Gas.

In the ICA, we contended that the Impugned Order (of the learned Single Judge dated 14 December 2009 in Writ Petition No. 3708 of 2009 (“**WP**”) be set aside in the interest of justice and equity, as we were not heard in the writ in the first instance (audi alteram partem). It was prayed that the writ be remanded back to a Single Judge for a de-novo hearing of the WP after setting aside the Impugned Order providing sufficient opportunity to the Appellant of being heard. The same was accepted by the LHC.

In the WP, it was contended by DPL that the mechanism used for calculation of price of gas is in a certain way, whereas the Ministry contended that the mechanism was in a different way. As the mechanism provided for the calculation of price of gas in the PCA was vague, both permutations of calculation of price of gas appeared to be coherent with the provisions of the PCA. DPL sought an opinion from the Attorney General for the resolution of this dispute, which was decided in favour of DPL. The Ministry did not change its stance after being provided with the opinion. DPL therefore filed a WP for the resolution of this dispute. The Ministry was represented by RIAALAW.

***Clariant Pakistan and Novartis Pharma Pakistan Ltd.***

RIAALAW is also defending Clariant Pakistan and Novartis Pharma Pakistan Ltd., before the Environmental Protection Agency (“**EPA**”). The EPA has issued show-cause notices to these pharmaceutical companies for acting in violation of the Pakistan Environmental Protection Act, 1997 (“**PEPA**”). These companies (through their legal counsel RIAALAW) contend that they at all material times have endeavoured to abide by the standards prescribed in PEPA (in particular), in addition to the internationally accepted norms and standards of best industrial practices and processes in order to further 'protect, conserve, rehabilitate and improve' the environment at large, and amongst other things 'prevent and control pollution' in order to promote sustainable development and contribute positively to the economic development and growth of Pakistan.

Furthermore, RIAALAW successfully defended Novartis Pharma Pak Ltd. in the district of Larkana in Suits No. 28 and 42 of 2009 filed by ex-employees, Mr. Aftab Munawar and Mr. Inyatullah Solangi, praying

therein for declaration, mandatory injunction and damages amounting respectively to Rs. 20 million and Rs. 26.655 million. RIAALAW was successful in getting the plaint returned for presentation before competent Courts of law.

***Sanofi-Aventis Pakistan Ltd.***

RIAALAW is defending the pharmaceutical company Sanofi-Aventis Pakistan Ltd. (“**Sanofi-Aventis**”) in a Constitutional Petition filed by M/s Kurative Pharma International (“**Kurative**”) challenging therein the award of the contract (for supply of medicines) to Sanofi-Aventis for the year 2010-11 by the Government Medical Store Depot. The contract is for the supply of certain lifesaving medicines to the government hospitals in Balochistan. RIAALAW has filed objections to this Petition challenging its maintainability on the ground that material facts have been deliberately suppressed by Kurative in its bid to challenge the award of contract to Sanofi-Aventis.

***International Federation of Red Cross and Red Crescent***

International Federation of Red Cross and Red Crescent Societies, Kuala Lumpur, Malaysia, have engaged RIAALAW to represent it before the Courts at Balochistan.

***Attock Cement Pakistan Limited***

RIAALAW regularly advises Attock Cement Pakistan Limited on various corporate and commercial matters. In the year 2010, RIAALAW acted as the legal counsel for conducting a legal due diligence of Al-Abbas Cement Industries Limited for and on behalf of Attock Cement Pakistan Limited.

***Piranha Company***

Piranha Company has filed a suit before the 2nd Civil Judge, at Quetta, Balochistan, for the recovery of US\$.154, 317.90 along with another amount of Rs.10,50,000/- being transportation charges. In this case, RIAALAW intends to file application for the returning of the plaint, for its presentation before the competent court having territorial jurisdiction inasmuch as RIAALAW would also press the issue that the dispute be resolved in accordance with the rules governing arbitration as set out by the United Nations Commission on International Trade Law and the governing law of the contract being that of Geneva.

**RIAA-AFGHANISTAN**

In continuation of RIAALAW's international expansion plans, in January 2010 the Firm established its offices in Kabul, the heart of a re-emerging Afghanistan.

Since 2002 RIAALAW has been providing legal services through its Pakistan offices for our international clients working in Afghanistan. However, in view of inadequate access to information regarding the applicable laws, lack of English translation of the limited legislation and virtually non-existent lawyer's fraternity in Afghanistan RIAALAW took the step of establishing on-the-ground presence in Kabul in order to better handle the interests of the Firm's clients.

RIAALAW-Afg is a reflection of the Firm's 50 years of global legal expertise and is now the largest presence by an international legal service provider in Afghanistan, having 7 qualified and experienced lawyers and providing a broad spectrum of legal services in Afghanistan. RIAALAW Pakistan provides all the support in view of the corporate structure in Afghanistan. With a permanent set-up and an office in the busiest business district of the city, Shehre-nau Park area, along with access to the entire RIAALAW database and global resources, RIAALAW-Afg has become a part of the Afghan reconstruction efforts.

RIAALAW-Afg has completed a very productive and successful year. Investment law, financial regulations, corporate structures, taxation, regulatory frameworks and labour laws have been the highlight of the year. Currently RIAALAW-Afg is providing services to clients including Etisalat, the largest telecommunication service provider of Afghanistan, along with Nordic Camp Supply ApS the largest fuel supplier in Afghanistan.

RIAALAW-Afg conducted extensive due diligence into the various Telecom Service providers including internet providers. The same also conducted extensive companies' searches whereby it transpired, that lack of understanding of the serious short comings in the applicable laws and lack of expertise of the Regulator, were the substantial hurdles for the investors. RIAALAW-Afg unraveled a lot of these issues in the various transactions and contracts that they concluded. This is a proof of the fact that RIAALAW-Afg is able to provide its clients with the streamlined and goal oriented legal services that they need in the challenging business landscape of Afghanistan.

**ARBITRATION**

***Seasole Construction Company vs. National Highway Authority***

RIAALAW represented Seasole Construction Company (“**Seasole**”) in the matter of arbitration between Seasole and the National Highway Authority (“**NHA**”) before the learned sole arbitrator, Sheikh Riaz Ahmed (Retd.) Chief Justice of Pakistan (the “**Arbitrator**”). The Arbitrator found that the NHA committed breach of the Toll Operation Agreement (the “**Contract**”) and subsequently, Seasole has been awarded consequential damages. The Arbitrator has made an award, dated 30th June 2010, in favour of Seasole worth Rs. 3,66,40, 259/- (the “**Arbitration Award**”). Furthermore, an Interim Award had been awarded by the Arbitrator, which amounted to an additional Rs. 48,67,936/-.

The Arbitration Award has been made on the basis that (i) Seasole entered into the Contract on account of misrepresentation by the NHA, as the same had given the assurance that the 'Infrastructure' of the toll plaza was the property of it and so they had the complete legal authority to hand the same over to Seasole for operation of the toll plaza operation. In fact, it transpired that the land was owned by Railway Authorities. As such the Contract was voidable at the option of Seasole (ii)The NHA, though given notice of the circumstances, did not take any actions to enter into a lease agreement regarding the 'Infrastructure' with the Railway Authorities until Seasole had been evicted from the site. The NHA did not take any steps to mitigate the circumstances. (iii) Seasole had been performing its obligations under the contract and continued to make payments towards the 'Monthly Guaranteed Income' under

the Contract, and therefore the NHA had no justification to terminate the Contract (iv) The termination of the Contract by the NHA for the alleged default in the payment of the 'Monthly Guaranteed Income' was illegal and arbitrary.

***ZAHRA Communication (Private) Limited vs. the National Telecommunication Authority***

RIAALAW is conducting a marathon arbitration before the Sole Arbitrator, Justice (R) Nasir Aslam Zahid, between Zahra Communication (Private) Limited (“**ZAHRA Communication**”) and the National Telecommunication Authority (“**NTA**”). In this multi-billion rupee arbitration proceedings RIAALAW is representing ZAHRA Communication against NTA. The arbitration has been ongoing for a considerable period of time. Finally, we have reached the final argument stage for this arbitration and we would soon have concluded these tiring proceedings.

***RCM2 Limited vs. Air University***

RIAALAW is representing RCM2 Limited an equipment supply company registered in England and Wales, under the laws of the United Kingdom. RCM2 has been involved in supplying high-tech laboratory equipment to various entities in Pakistan. The issue arose in RCM2 equipment supply contract with Air University, when Air University failed to give due payment of the invoices raised by RCM2 for the equipment which was duly supplied to Air University. RIAALAW assisted RCM2 in filing a suit for the recovery of damages before the Honorable Courts of Islamabad. The matter is still pending; RIAALAW is seeking to resolve the matter now through Arbitration, since there is an arbitration clause under the contract entered into between RCM2 and Air University.

RIAALAW holds the distinction of being one of the premier legal counselors for the power sector and has gained a distinct reputation in the same; more specifically for negotiation with government entities including NEPRA, PPIB and NTDC. Thus, RIAALAW acts as corporate counselor to national and international companies sponsoring power projects in Pakistan and is currently representing almost all of the major companies involved in setting up power projects in the oil, gas, hydro and

alternate energy sectors in Pakistan. These power projects entail wide ranging issues requiring industry know-how, from the legal, commercial and technical perspective. Some of RIAALAW's clientele include Hub Power Company Limited, Star Hydro Power Limited, Sapphire Wind, JDW Power, AES LalPir Limited, Altern Energy Limited, Lucky Energy, Engro and Radian Energy Power Generation Company among many others.

RIAALAW continues to provide ongoing support to

the Firm's power sector clients from all of its Pakistan offices. Here is a glimpse of the work undertaken at RIAALAW this past year.

***Star Hydro Power Company***

RIAALAW is the legal counsel for **Star Hydro Power Company**, sponsored by Kay Water Korea, that is setting up a 150 MW power Plant in Patrind, Muzaffarabad. The project is funded by major international financial institutions including Asian Development Bank, Islamic Development Bank and International Finance Corporations.

Currently, this project is in the advance stage. After having successfully obtained the tariff approval and NEPRAs generation license, the company has finalized the Power Purchase Agreement, the Implementation Agreement with the Government of AJK and the Government of Pakistan, the Water use Agreement with the Government of Khyber Pakhtunkhwa and the land acquisition process.

***Nishat Power Projects***

RIAALAW is also the lenders' counsel in **Nishat Power Projects**. Benefitting from its expertise in banking litigation, RIAALAW has provided its services in preparation of syndicated financing documents required for such projects keeping in view the issues that arise during litigation and courts' interpretation of such finance documents.

- Thermal Power

***Hub Power Narowal Project***

RIAALAW continues to act as the counsel for **The Hub Power Company Limited ("HUBCO")**. Various Finance facilities of up to Rs. 4 billion have been settled in the year 2010 under the conventional and Islamic modes of financing for making investments in Laraib Energy Limited. RIAALAW is currently negotiating finance and security documents on behalf of HUBCO to meet the working capital requirements of approximately Rs. 8 billion for its new 213 MW Power Project situated at Narowal, Punjab. RIAALAW has also been extensively involved in filing a petition seeking modification in the Generation License of the Narowal Project.

***Halmore Power Generation Company Limited***

RIAALAW acted as project counsel for a syndicate of local banks providing payment guarantee facilities and syndicated working capital finance facilities to **Halmore Power Generation Company Limited** for financing the working capital requirements of the dual-fuel, gas and high speed diesel oil electric power generation station being set up at Bhikki, Province of Punjab. RIAALAW has successfully drafted and negotiated the related project and security documents of approximately Rs.1,816 million on behalf of the syndicate.

***Saif Power Limited***

RIAALAW acted as project counsel for a syndicate of local banks providing payment guarantee facilities and syndicated working capital finance facilities to **Saif Power Limited** for financing the working capital requirements of the electric power generation station being set up at Sahiwal, Province of Punjab. RIAALAW has successfully drafted and negotiated the related project and security documents of approximately Rs. 2,100 million on behalf of the syndicate.

***Karachi Electric Supply Company Limited***

RIAALAW has been engaged by Karachi Electric Supply Company Limited ("**KESC**") in relation to its 'Retrofit' project aimed at fuel replacement of its oil fired Bin Qasim Thermal Power Plant into coal. The conversion project aims to diversify KESC's fuel basket and consequently reduce reliance on furnace oil and to increase dependability on coal to generate power.

- Wind Power

***Yunus Brothers Group***

RIAALAW has been engaged by the **Yunus Brothers Group of Companies ("YB Group")** for setting up a 50MW wind power project in Sindh. YB Group is one of the largest export houses of Pakistan that has grown up remarkably over the last 50 years. YB Group also owns one of the largest cement manufacturing plant and the second largest yarn manufacturing capacity in the Country.

RIAALAW has also recently been engaged by the **Lucky Energy Private Limited ("LEPL")**, a company which operates under the flagship of YB

Group. LEPL is a Small Power Producer with a gas based power plant thermal power generation facility, expanding its generation facility. LEPL was first granted a Generation License in 2005, which was modified in 2007. Now LEPL seeks a Licensee Proposed Modification in its Generation License. RIAALAW is engaged to seek modification in the Generation License of LEPL for an increase in its capacity, change of consumers and relocation of the generation facility. RIAALAW has successfully filed a petition for Modification in the LEPL's Generation License.

➤ Captive Power Projects

***OMNI Power (Private) Limited***

RIAALAW has acted as project counsel for **OMNI Power (Private) Limited** (“OMNI Power”) for setting up a 12.8 MW gas-fired thermal captive power plant in Sindh. The project is being established under the new policy for Captive Power Plants of 2009. The Plant will supply electricity to meet the requirements of a nearby Polypropylene Plant, which is an associated undertaking and will sell surplus electricity to the Hyderabad Electricity Supply Company (“HESCO”). RIAALAW advised OMNI Power in negotiations with a syndicate of lenders comprising of the National Bank of Pakistan, Pak Libya Holding Company (Private) Limited and Summit Bank Limited. The facilities availed by OMNI Power comprised of a syndicated term loan facility and a Deferred Payment Letter of Credit Facility backed by an export credit facility extended by Oesterreichische Kontrollbank AG (OEKB), Austria's official Export Credit Agency.

***Dadu Energy, Shikarpur Energy and Naudero Energy***

RIAALAW has also been engaged by **Dadu Energy, Shikarpur Energy and Naudero Energy** for finalising the financial arrangements for setting up gas fired captive power projects of 12 -18 MW in Sindh.

***ENGRO Fertilizer Limited formerly known as ENGRO Chemical Pakistan Limited***

RIAALAW assisted **Engro Fertilizer Limited** (“EFL”) in filing a petition for a Distribution License for its distribution facilities, and

distribution activities which it has been carrying out prior to the establishment of NEPRA and prior to the issuance of a distribution license to Ex-WAPDA DISCOs.

EFL required a license to expand their existing distribution facilities which are located in the area of HESCO an Ex-WAPDA DISCO which was granted a distribution license in 2002.

EFL's case was one of its kind, EFL being a Captive Power Plant with a power generation capacity of 36.5 MW solely used for self-consumption is not involved in sale of electricity. RIAALAW as the counsels of EFL, filed petition under Section 20 of the NEPRA Act for grant of the distribution license in March 2009, HESCO's plea before NEPRA was that under its distribution license of 2002, HESCO has the exclusive right under the defined “Service Territory” to distribute electricity. The matter was taken up by NEPRA, and a public hearing was called all the parties were heard and successfully EFL was granted a Distribution License by NEPRA.

This has opened doors for a lot of other distribution companies, housing colonies to seek distribution license under the NEPRA regime, and to kill the monopoly created by the defined “Service Territory” under the distribution licenses granted to Ex-WAPDA DISCOs.

RIAALAW is also assisting EFL in the Court matter which HESCO has filed against NEPRA and EFL to revoke the Distribution License of EFL, this matter is still pending.

**INSURANCE**

RIAALAW has acted as counsel for **Saif Power Limited** in relation to an insurance claim against EFU General Insurance Limited worth **Rs. 6,100,000**.

RIAALAW also acts as counsel for **Adamjee Insurance Company Limited** in relation to insurance claims made by cargo owner policy holders. RIAALAW is currently acting as counsel for Adamjee Insurance Company Limited regarding an insurance claim made by DHA Cogen Limited against Adamjee Insurance Company Limited worth **Rs. 523 Million**.

RIAALAW advised **EFU Insurance** on the Guidelines for Banc assurance 2010, issued by the Securities and Exchange Commission of Pakistan (“SECP”).

**REGULATORY**

***Bawany Sugar Mills***

RIAALAW acted as legal advisors for **OMNI Power (Pvt.) Limited** (“OMNI Power”) in relation to the acquisition of majority shares of Bawany Sugar Mills Limited. The firm provided consistent legal advice on takeover laws, competition laws, tax laws and in relation to seeking pre-merger approval from the Competition Commission of Pakistan and State Bank of Pakistan. RIAALAW also expedited the process greatly by successfully obtaining an exemption from the SECP in relation to the requirement of making a public offer of the shares which were to be acquired by OMNI Power, convincing the SECP that in the circumstances at hand, the making of such a public offer would be redundant.

***General Cables Corporation***

RIAALAW advised General Cables Corporation in relation to its acquisition of shares in Pakistan Cables Limited. RIAALAW conducted a due diligence of the Company's assets and all material agreements, advised in relation to obtaining the relevant approvals and consents and assisted in the drafting of the Share Purchase Agreement that was eventually executed by the parties.

***Regulatory Advice***

RIAALAW has been engaged in work as local counsel to a number of foreign law firms such as Clifford Chance, Allen & Overy and Shearman & Sterling by providing advice regarding Pakistani laws and regulations. RIAALAW has also recently advised Barclays Bank plc, KUFPEC and GDF Suez (a French public limited company whose shares are listed on Euronext Paris) in relation to their operations and the administration of their operations in Pakistan in respect of Pakistani labour laws, foreign exchange and tax laws.

***World Bank Pension Dispute***

RIAALAW has been engaged by a private client in relation to an employment dispute regarding the client's pension entitlement under his employment contract with the World Bank. The issues highlighted by this case include whether judicial action may be brought against the World Bank in Pakistan, the implications of a foreign court order

in relation to third party rights to an individual's pension and the applicability of Islamic divorce laws to Pakistani Muslim individuals residing in non-Muslim states.

**MERGERS & ACQUISITIONS**

RIAALAW has advised a number of clients on potential mergers, including advice pertaining to pre-merger applications and approvals, the impact of the recent change in competition laws after the coming into force of the Competition Act 2010 and tax implications of proposed arrangements. Clientele in this regard include multinational companies such as **Mitsui & Co. Ltd.** RIAALAW was also engaged as legal counsel in relation to the acquisition of the share-holding Shell Upstream Gas Holdings B.V by Kuwait Foreign Petroleum Exploration Company K.S.C. and provided advice in relation to obtaining the relevant consents from the Directorate General of Petroleum Concessions

RIAALAW is currently advising two major cash & carry entities in relation to a potential merger-demerger arrangement which will be the first of its kind. The arrangement will provide for the restructuring of the management and ownership of both companies.

RIAALAW is also acting as counsel in relation to the merger of two major telecom licensed operators in Pakistan and has also advised a multinational pesticide manufacturing company in relation to a potential merger with the company's wholly owned subsidiary company.

RIAALAW is also advising a potential acquirer of **BP assets** in Pakistan and has been engaged in relation to the initial due diligence and negotiations for the potential transaction.

**FINANCING**

***The CITIZENS Foudation***

RIAALAW advised The Citizens Foundation in Relation to the creation of sustainable financing through a WAQF.

***Tuwairqi Steel Mills Limited***

RIAALAW advised Tuwairqi Steel Mills Limited in relation to US\$ 85 million syndicated Ijara finance facility obtained from the Islamic Corporation for Development of the Private Sector.

## INTERNATIONAL TRADE LAW

The Trade Law Department of RIAALAW marks its three (3) years in March 2011. In these three years, the Trade Law Department has achieved tremendous strides in developing proactive strategies to protect the interests of clients. The Trade Law Department of RIAALAW continues to represent and advise its local as well as foreign clients on complex issues arising from the WTO Agreements while doing cross-border trade and the obstacles being faced by Pakistani exporters in various export destinations.

The Firm has actively been involved in providing legal services in the area of anti-dumping duty investigations and has become the leading trade defense law firm in Pakistan. RIAALAW is currently representing exporters, producers (domestic and foreign) & importers in every investigation being conducted by the National

Tariff Commission (the “**Commission**”) (the anti-dumping investigating agency of Pakistan). These include exporters from Saudi Arabia, Oman, U.A.E., Korea, China, Indonesia, Netherlands, Singapore, Thailand, British Virgin Island and Ukraine.

The Firm is also assisting the domestic industry in filing anti-dumping applications. The Firm recently represented Engro Polymer & Chemicals Ltd., in its successful battle against dumping of PVC (Resin) from Korea and Iran. In addition, RIAALAW is representing APPMA, Rupfil Limited, Trade International and International Business Management before the Islamabad High Court in trade and tariff related matters.

During the year 2010, RIAALAW has excelled in trade law matters, custom matters, duties & taxes (including regulatory duty), incentives for exports and protection through tariffs and would continue to endeavor utilization of its resources in assisting its clients in the most effective and efficient manner.

*Trade Law has over the years evolved into a highly specialized field and dumping is no longer a simple concept, i.e. sales made below cost, but requires the application of a complex methodology.*

*Dumping is determined based on the difference between the Normal Value (ex-works value of goods; domestic market sales) and Export Value (ex-works value of goods; export sales).*

*However, dumping per se is not prohibited in law. Dumping is only prohibited if it results in or threatens to cause*

### A preview of the work undertaken by the Trade Law Department of RIAALAW in 2010:

#### ***Anti-dumping investigation against alleged dumping of Certain Paper***

RIAALAW is representing some of the biggest names in the Paper Industry in Asia against an application filed by Packages Limited. Our clients in this investigation include **April Fine Paper Trading PTE Limited** (Singapore/Indonesia), **Double A (1991) Public Company Limited** (Thailand) and **Asia Pulp and Paper Co.** (China).

Amongst a number of other importers, RIAALAW is also representing the **All Pakistan Paper Merchants Association** in this investigation.

#### ***Anti-dumping investigation against alleged dumping of BOPP film***

RIAALAW is representing **Taghleef SAOG (Oman)** and **Taghleef LLC (UAE)**, part of the Al-Ghurair group, against an application submitted by Tri-Pack Limited. RIAALAW is also representing a number of local importers in this investigation, including Metatex (Private) Ltd., Dynamic Packaging (Pvt) Ltd. and Saima Packaging (Pvt.) Ltd.

#### ***Anti-dumping investigation against alleged dumping of Paperboard***

RIAALAW is representing a number of international paperboard producers and exporters in the ongoing investigation against alleged dumping of paperboard in Pakistan before the Commission including **Hansol Paper Company Ltd** (Korea), **HM Trading Corporation** (Korea), **PT Fajar Surya Wisesa Tbk** (Indonesia), International Business Management (Karachi), Trade International (Lahore), ATC Pakistan Private Limited.

**NOTABLE ACHIEVEMENTS OF 2010**

***Anti-Dumping Investigation against alleged dumping of Hydrogen Peroxide***

The Firm successfully defended its clients **Hansol Chemical, Korea** and **OCI, Korea** against the allegations of dumping. Among exporters from seven countries alleged of dumping, our clients were the only two companies exempted from anti-dumping duties.

***Anti-Dumping Investigation against alleged dumping of Hot Rolled Coil (“HRC”)***

The Firm takes great pride in successfully terminating the most contentious anti-dumping investigation in which Pakistan Steel Mill had filed the application for imposition of anti-dumping duties against imports of HRC from Ukraine, Japan, Belgium, USA and Russia.

***Anti-Dumping Investigation against alleged dumping of Caustic Soda***

The Firm assisted **SABIC, Saudi Arabia** in this investigation, which was later withdrawn by the applicants.

***Engro Polymer and Chemicals Limited, Karachi (“Engro”)***

RIAALAW successfully achieved imposition of anti-dumping duties on dumped imports of PVC Resin (Suspension Grade) from Korea and Iran. The application was filed by Engro on behalf of the domestic industry for continuation of anti-dumping duties imposed in 2004.

**CONTACT RIAALAW**

**Islamabad**

68, Nazimuddin Road, F-8/4,  
Islamabad, 44000  
UAN: (+92 51) 111-LAWYER  
Tel: (+92 51) 2852427-30, 2851337  
Fax: (+92 51) 2850444  
E-mail: [Islamabad@riaalaw.com](mailto:Islamabad@riaalaw.com)

**Karachi**

D-67, Block 4, Clifton,  
Karachi, 75600  
UAN: (+92 21) 111-LAWYER  
Tel: (+92 21) 3586-5198  
Fax: (+92 21) 3587-0014, 3586-5107  
E-mail: [Karachi@riaalaw.com](mailto:Karachi@riaalaw.com)

**Lahore**

191-A, Cavalry Ground, Shami Road,  
Lahore Cantt,  
UAN:(+ 92 42) 111-LAWYER  
Tel: (+ 92 42) 3662-0588, 3662-0599  
Fax: (+ 92 42) 3662-0577  
E-mail:[lahore@riaalaw.com](mailto:lahore@riaalaw.com)

**Kabul**

Rizvi, Isa, Afridi & Angell Inc.  
Suite 1-2, Building No.5, Flower Street,  
Opposite Kabul Bank, Shahr-e-Naw,  
Kabul, Afghanistan  
Tel: (+ 93 75) 207-1987  
E-mail: [kabul@riaalaw.com](mailto:kabul@riaalaw.com)

*AFRIDI & ANGELL*  
Dubai, Sharjah,  
Abu Dhabi

*AFRIDI & ANGELL*  
Shanghai

*AFRIDI & ANGELL LLC*  
New York

