



Statement of Support for US Government Decision to Halt Permitting of LNG Export Terminals and Caution on Legal Risks to Banks

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ClientEarth strongly welcomes the recent decision by the Biden Administration to pause the permitting process for liquefied fossil gas (LNG) exports (Note 1) to non-Free Trade Agreement countries, which was announced on January 26 2024. The decision affects 12 LNG terminals currently under review and validates the growing consensus that LNG projects pose a grave stranded asset risk to financiers. We call for the pause to be made permanent, on grounds that the terminals are not in the public interest, a threshold requirement under U.S. federal law (Note 2).

LNG projects face significant stranded asset risks due to their outsized greenhouse gas footprint. LNG is composed primarily of methane, a pollutant that has 80 times more global warming potential than carbon dioxide and is responsible for one third of the global warming we are experiencing today. LNG is nearly four times more carbon-intensive than domestically consumed fossil gas owing to the energy used for liquefaction, transport, and gasification, and LNG from the US is almost entirely derived from fracking, a process that has been linked to significant methane pollution as well as other air and water pollution. The January decision affects 12 LNG terminals awaiting US Department of Energy approval to export fossil gas: the lifecycle emissions of these projects have been calculated at over 830 MMT CO₂e/year, equivalent to 223 coal plants—or roughly the annual emissions of Germany. In order to avoid an increase in global temperatures in excess of 1.5°C and prevent the most catastrophic consequences of climate change, the Intergovernmental Panel on Climate Change (IPCC) has stated that global carbon dioxide (CO₂) must be reduced by 48 percent from 2019 levels by 2030 and reach net-zero carbon emissions by 2050, while methane emissions must fall 34% by 2030. The International Energy Agency (IEA) estimated that in a net zero scenario, fossil gas demand in 2050 will be 75% lower than in 2022, and “falling demand means that no new long lead time conventional oil and gas projects are approved for development and, after 2030, a number of projects are closed before they reach the end of their technical lifetime.” (Note 3)

The stranded asset risks are amplified by evidence that the projects are unnecessary to meet energy demand. The projects affected by this decision would be in addition to 26 export terminals that already exist, are under construction or approved for construction in the US, primarily in the Gulf Coast. The United States is already the largest LNG exporter in the world, and current projects under construction and unaffected by this decision are projected to double its export capacity. The primary importers of US LNG - Europe and Asia – are working to transition to clean energy in line with their international commitments, and they are implementing policies that will structurally reduce gas demand. Meanwhile, transition to a clean energy economy is accelerating globally.

The fossil gas industry has deceptively touted the conversion of fossil gas to hydrogen as an energy transition pathway. Today, the concept of hydrogen-readiness is of no practical meaning for LNG terminals and converting LNG infrastructure at a later stage would also require extensive retrofitting at great expense. Hydrogen-ready LNG terminals and LNG terminals which could use hydrogen derivatives such as ammonia, do not exist today because methane and hydrogen have very different properties, which require different infrastructure.

For example, LNG infrastructure is ill-suited to house and transport hydrogen due to the significant difference in molecular weight compared to fossil gas. Hydrogen is also highly flammable and can cause methane to stay in the atmosphere for longer. The IEA also highlights these **major technical challenges**, clearly stating that: "Repurposing LNG terminals for liquefied hydrogen faces greater technical challenges due to the much lower temperature needs, which limits the reuse of existing equipment. This has important cost implications. The LNG tank alone accounts for around half the cost of an LNG terminal investment and a newly built liquefied hydrogen storage tank to replace it can be 50% more expensive than a LNG tank. There is no experience yet converting existing LNG terminals to ammonia or hydrogen, rendering cost estimates uncertain."

LNG export facilities are associated with significant environmental justice and human rights impacts, both domestically and overseas. Many of these LNG terminals are located in the backyard of communities that are already burdened with polluting industries and suffering from high levels of cancer as a result. Globally, the climate impacts of LNG expansion implicates human rights concerns, as human suffering resulting from climate change is increasingly evident from the damage wrought by increasing extreme weather events. In 2023 alone, the US experienced 28 weather and climate disasters each incurring losses that exceeded \$1 billion, the highest annual disaster count on record. Failure to wean off fossil fuels could lead to large parts of the tropics becoming uninhabitable, widespread crop failures, sea level rises up to 1-foot by 2050, and a high risk of crossing further climate tipping points (e.g. collapses of icesheets and the breakdown of rainforest ecosystems and ocean circulation systems) that could cause further and uncontrollable jumps in temperature rise. Given this, the US Department of Defense has elevated climate change as a national security priority.

The current Biden decision may have legal implications for the major financiers of LNG development, which are dominated by U.S., Japanese, and European banks. In the form of loans and underwriting, major banks are providing billions of dollars of support for these LNG projects, despite their public commitments to align lending and investment portfolio emissions with pathways to net-zero by 2050 or sooner. Continuing to do business with non-Paris-aligned clients pursuing fossil fuel expansion, with the consequent reputational and financial risks that result, may give rise to legal risks, including litigation for misrepresenting the sustainability of their financing practices. It may also implicate directors for potential breach of their fiduciary duties and/or failure to respect human rights. Climate change is a well-documented human rights issue and engages business enterprises' responsibility to respect human rights. Banks, like all business enterprises, have a responsibility to respect human rights under international law, specifically as set out in the UN Guiding Principles on Business & Human Rights (UNGPs) and incorporated in the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines). Banks must take this opportunity to reevaluate and end their financing of fossil fuel expansion in light of their legal obligations.

Notes:

- (1) This statement uses the term "fossil gas" instead of "natural gas" as it is a fossil fuel derived energy source typically consisting of 87~97% methane. (Source: IEA)
- (2) Natural Gas Act § 3, 15 U.S.C.A. §§ 717b(a). In assessing the public interest, the Department of Energy (DoE) considers the following: (i) the domestic need for natural gas proposed to be

- exported; (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies; (iii) impact on the U.S. economy including on domestic natural gas prices; and (iv) any other factors bearing on the public interest including international and environmental considerations. The DoE's export authorization is also subject to the National Environmental Policy Act (NEPA), which requires incorporating an analysis of the environmental impacts of its actions into its decision-making process.
- (3) The incompatibility of fossil gas with net zero is the subject of a complaint brought by ClientEarth and our allies, challenging the European Commission's inclusion of fossil gas uses in the EU's sustainable finance Taxonomy.

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