Turkey - Mining Sector

Overview

KEY FACTS

- 77 out of the 90 minerals that are traded worldwide can be found in Turkey
- It has very rich deposits for approximately 50 of those minerals, including lignite, coal, gold, iron and copper
- Turkey has 72% of global boron reserves and 33% of global marble reserves
- It has 2.5% of the world’s industrial raw material reserves and 1% of the world’s coal reserves
- Its wealth in minerals is mainly a result of Turkey being part of the Tethyan-Eurasian Metallogenic Belt within the Alpine-Himalayan orogenic system

Over the last decade, with a move towards liberalisation and the privatisation of some major state owned mining enterprises, Turkey’s mining industry has seen a fast growth in its profits and revenues. The industry is attracting an increasing amount of local and foreign investment and production due to, amongst many other reasons, the country’s established infrastructure and favourable tax regimes. However, Turkey’s mining potential still remains largely untapped.

Ownership

Under Turkish law, all natural resources are exclusively owned by the State. The State has the exclusive right to explore and operate facilities related to minerals, however it can transfer this right to individuals and legal entities for a specific period of time through the granting of a licence. Once a licence is granted, there is no requirement for a Government entity to hold an interest/share in the mining investment.

Legislation

The main legislation applicable to exploration and extraction of mineral resources is Mining Law No. 3213 (1989); this has been amended from time to time, most recently on 18 February 2015 by Law No. 6592 (Amendment Law). There is also related secondary legislation in the form of Regulation on the Implementation of Mining Activities and Regulation on Mining Activity Permits.
Turkish mining law divides minerals into five groups with some of them split into detailed sub-groups. The main groups are:

- **Group I**: Sand, gravel, brick clay, cement clay, marl
- **Group II**: Marble, decorative stones, limestone, basalt
- **Group III**: Salts, CO2, gas
- **Group IV**: Lignite, coal, gold, silver, copper, zinc, chromium, iron, cobalt, nickel, aluminium, trona, sulphur
- **Group V**: Diamond, sapphire, opal, amazonite

**Regulatory Bodies**

There are two main government authorities:

- **Ministry of Energy and Natural Resources (MENR)** - sets out general rules and policies for mining, as well as performing regulatory and supervisory overseeing of mining operations; and
- **General Directorate of Mining Affairs (GDMA)** - is responsible for day-to-day activities such as granting licences for mining rights and supervising mining activities.

Additionally, the General Directorate of Mineral Research and Exploration is a separate body attached to the MENR. It conducts scientific technological research on mineral exploration and geology, which is made available to those in the mining industry. It also publishes very useful information such as reports on quantities and breakdowns of mineral reserves, information on licence holders, and the export trends of minerals in Turkey.

**Licences**

There are two types of licences that can be issued by the GDMA, summarised as follows:

- **Exploration licence** - grants the holder the right to carry out mineral exploration activities. It is usually granted for 3 years however it can sometimes be extended. For some of the mineral groups, an exploration licence is not required. An applicant must first submit standard forms to the GDMA, which should include information about the applicant and the relevant site. After receiving this the GDMA will inform the applicant of the site’s availability and reserve it for a period of two months. Within that period, the applicant must submit various documents to the GDMA in order to obtain the licence including a preliminary survey report, an exploration plan report and evidence of the financial capability of the applicant.

- **Operation licence** - grants the holder the right to operate a mine. The term of a licence is dependent on the mineral the applicant intends to excavate. Although it can be extended, the term will not, ordinarily, exceed 60 years. For the majority of the mineral groups, having an exploration licence is a prerequisite for applying for an operation licence. An applicant must submit a detailed operation plan to the GDMA before their exploration licence expires. They must also submit evidence that the operation licence fee has been paid and that they have the financial capability to realise the project. However, it is important to note that an operation licence does not grant the licence holder the right to commence operation activities. To do so they must obtain an operating permit. An operating permit can only be issued after other necessary permits have been obtained such as applicable environmental permits.

Licence holders are subject to various obligations under both licences, failure to comply with these may lead to the termination of the licence.
Payments

- **Licence fees** - consist of an application fee, payable on the grant of the lease, and an annual licence fee thereafter. There is a new system in operation under the recently enacted legislation, however current licence holders will not need to comply with this until 1 January 2016. Under the new system, there is no longer a requirement for an applicant to provide a security deposit and all fees are included under a single licence fee system. Whilst previously the Ministry of Finance determined fees annually, the minimum fees charged for each type of licence is now determined by two fee charts annexed to the new Mining Legislation. These are multiplied according to the parameters associated with the different mineral groups. They will increase annually in line with the annual revaluation rate determined by the Tax Procedural Code No. 213.

- **Royalties** - are annually paid to the government for the extracted minerals. These will differ depending on the type of mineral, although for most minerals it is 4%. If they are not paid on time they are subject to default interest.

- **Finder’s fee** - is payable if the extracting company did not discover the presence of that mineral on that particular site. It is set at 1% of the extracted ore’s value.

- **Tax** - Earnings obtained through mining operations are subject to income and corporate tax. However there are certain tax incentives available for those involved in mining activities including land allocation priority, VAT exemption for imported machinery and equipment used in mining operations, and corporate income tax allowance.

Important things to note

- **Restriction on recipients of rights** - Mining rights can only be granted to Turkish citizens or legal entities established under Turkish Law. However, companies established in Turkey, with foreign capital in accordance with Turkish Commercial Code No.6102, will be deemed to be Turkish companies.

- **Consent of MENR** - is required for mining activities in areas reserved for public service, public interest or within 60 metres distance of those areas.

- **Health and Safety Regulation** - In Turkey’s legislative framework, workplaces are classified according to their hazard levels; all mining activities are classified as very hazardous. Therefore they are subject to obligations contained in the Law on Occupational Health and Safety, in addition to those contained in the Mining Safety Regulations.
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