Recent Amendments to the Mining and Renewable Energy Legislation

May 2024

Dear Clients, Colleagues and Friends,

The Law No. 7501 Amending the Mining Law and Other Certain Laws has been recently published in the Official Gazette dated 11 May 2024 and numbered 32543 and it came into force on 11 May 2024 ("**Amendments**"). As per the Amendments, various revisions have been introduced in the relevant legislations of the energy sector in order to meet the requirements of the developing market conditions.

1. Amendments enacted with respect to the Mining Law No. 3213 ("Mining Law")

1.1 The obligation to submit report in consistent with the UMREK Code has been withdrawn apart from Group IV mines

Former regulations in the Mining Law required the issuance of reports on possible mining reserve areas in accordance with the UMREK code which sets the minimum standards, recommendations, legal requirements and application principles to ensure clear, reliable and transparent reporting of mineral exploration results, mineral resources and mineral reserves in the Republic of Türkiye to sufficiently inform investors and shareholders, as published by the National Mineral Resource and Reserve Reporting Commission ("**UMREK**"). Otherwise, licences of the relevant reserve areas would be revoked. Following the enactment of the Amendments, the UMREK Code reporting obligation will only resume for Group IV mines while it will continue on a voluntary basis for other groups of mines. Therefore, the requirement to report in accordance with the UMREK Code, which caused high reporting costs and was not technically crucial in terms of the surface or near surface mine groups such as Group I, Group II, Group III and Group V has been amended. It has been aimed to reduce the negative effects of such reporting requirement on small or medium sized companies, which are mostly investing in this field.

1.2 The UMREK Code reporting condition has been revoked in terms of acquiring the right of exploration

The General Directorate of Mineral Research and Exploration ("**MTA**") will be entitled to acquire the right of exploration based on the reports prepared by MTA without the requirement of submitting a UMREK Code based report in relation to the mines explored by itself in the ordinary course of its operations. Consequently, MTA will be entitled to the right of exploration over a resource identified as a result of surveys, geophysics, drilling and similar studies carried out based on the technical reports prepared by MTA.

2. Amendments introduced for Renewable Energy Resource Areas ("RERA") and other energy projects

2.1 Areas that can be established as a RERA have been broadened in accordance with the Coastal Law

Pursuant to the Amendments, renewable energy power plants can be established without the need for a zoning plan within the areas declared by the Ministry of Energy and Natural Resources ("**Ministry of Energy**") as a RERA on or within seas, dam reservoirs, artificial lakes and natural lake areas, *excluding* drinking or potable water reservoirs, wetlands and coasts and coastlines within the scope of the Coastal Law No. 3621 ("**Coastal Law**").

Following the introduction of the Amendments, legal entities holding a preliminary licence or a generation licence in relation to hydraulic resources can establish hybrid generation facilities based on renewable energy sources without a zoning plan, in dam reservoirs, artificial lakes and natural lakes, excluding reservoirs and wetlands utilised for drinking or potable water supply and the coasts and coastlines covered by the Coastal Law.

Moreover, in order to meet the needs of electricity in agricultural irrigation facilities operated by the General Directorate for State Hydraulic Works ("**SHW**") or irrigation unions, SHW or irrigation unions authorized by SHW may establish unlicensed electricity generation facilities based on renewable energy sources in the areas listed above.

2.2 Price and/or cost arising from competition is recognised within the scope of the Feed-in-Tariff for the period stipulated in the competition specifications

As per the Amendments, procedures for the RERA competitions will be determined by the Ministry of Energy in the relevant competition specifications. The price and/or cost resulting from the competition will be considered within the scope of Feed-in-Tariff ("**FiT**") over the period to be determined in the competition specifications. Therefore, it is envisaged to prevent the potential setbacks that may be occurred in the projects due to the increasing prices over the time as opposed to the low prices that occur as a result of the competitions through Dutch auction.

2.3 Prices applicable to unlicensed electricity generation facilities that have fulfilled their ten year term has been amended

Facilities carrying out unlicensed electricity generation activities for more than ten years can be converted to licensed generation facilities. Previously, 15% of the hourly market settlement price in the electricity market was required to be paid as a contribution fee to FiT in order convert to a licensed generation facility. With the Amendments, electricity prices of such power plants had been amended. Accordingly, if the hourly market settlement price in the electricity market during the license period is higher than the current FiT price applied in respect to the relevant facility type pursuant to Article 6 of the Law on the Utilisation of Renewable Energy Resources for Electricity Generation, the price difference will be paid as a contribution fee to the FiT by the entities that converted their facilities to licensed entities. This amendment intents to ensure that generation facilities that completed their ten year term and converted to a licensed generation facility obtain similar revenues as other facilities that perform licensed generation operations through the FiT or by obtaining a generation license.

3. Amendments the Natural Gas Market Law No. 4646 ("Natural Gas Market Law")

3.1 Liquefaction of natural gas has been introduced as a market activity

Despite the fact that liquefaction of natural gas has been mentioned in the former regulations in Natural Gas Market Law, it was not defined as a separate market activity. Pursuant to the Amendment to the Law, the term "liquefaction of natural gas" is now defined to allow domestically produced and imported natural gas to be liquefied in Türkiye and marketed as LNG.

3.2 Amendments concerning natural gas market activities

Floating LNG terminals were already operating as per the existing regulations. Although these terminals are required to be fixed on a specific location while performing their activities, when needed it is possible for them to perform in different locations. As per the Amendments, operation and relocation of floating LNG terminals

will be determined by way of a regulation to be announced by the Energy Market Regulatory Authority ("**EMRA**") upon the consultation with the Ministry of Energy.

Additionally, the Amendments provide that legal entities that will be operating liquefaction facilities regarding the re-sale of domestically produced or imported natural gas are obliged to obtain a licence from EMRA. In this context, it is explicitly stated that liquefaction activity will not be considered as a storage activity.

Previously, export licenses were granted to a legal entity for each export target country. With the Amendments, the practice of issuing separate export licences has been revoked and a single export licence for more than one country has been introduced.

4. Amendments introduced in the field of Energy Efficiency

4.1 New terms have been added to the Energy Efficiency Law No. 5627 ("Energy Efficiency Law")

The term "applicant" has been amended and sectoral restrictions for applicants seeking to benefit from energy efficiency has been removed from the Energy Efficiency Law. Under the former regulations, applicants had to operate in the industrial, construction, agricultural and service sectors; however, with the amendment concerning sectoral restrictions, real or legal persons who wish to benefit from energy efficiency supports are defined as applicants without any sectoral specification.

4.2 Fees have been revised regarding the support of energy efficiency projects

With respect to the former regulations in the Energy Efficiency Law, efficiency-enhancing projects that were approved by the Ministry of Energy were supported at the rate of 20% for the projects with a total investment cost of up to TL 1 million and this support was provided as either monetary grants or interest incentive. Following the Amendments, the support fees are increased to support the costs at a rate of 30% of up to TL 15 million which will be continue to be provided as grants or interest incentives.

5. Transfer of liability in terms of the carriage of nuclear substances have been authorised

Following the enactment of the Amendments, nuclear operators are now allowed to transfer the liability to obtain insurance or provide guarantee for the carriage of nuclear substances to the carrier. This process needs to be completed by the approval of the Nuclear Regulatory Authority following the execution of a written agreement between the operator and the carrier, which should demonstrate explicit provisions on the carrier's request and the approval of the operator. Thus, upon taking over the liability, the carrier will be held liable as if it is the operator.

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