

Recent Changes in the Turkish Natural Gas Market Law

Introduction

The natural gas market in Turkey is regulated under the Natural Gas Market Law, numbered 4646 (the “Law”). With a draft law submitted to the Parliament on February 2nd, 2018, which has been examined and agreed by the planning and budget commission and forwarded to the Parliament for the enactment process, a crucial change within the Law has been proposed. Herein, the change in question and its background and potential effects are analyzed under three sections.

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First Amendment

In the current version of the Law, it is provided that;

- a) The Energy Market Regulatory Authority (“EMRA”) may give permission for the import from the countries other than those with which agreements have already been concluded by “BOTAŞ Petroleum Pipeline Corporation (“BOTAŞ”), by evaluating the applications within the framework of the procedures and principles to be determined by taking into consideration the formation of a competitive environment in the market, the obligations arising from existing agreements and export connections.
- b) No new gas purchase agreement can be concluded by any import company with the countries which have already

signed agreements with BOTAŞ, until the expiration of the term of these agreements.

- c) New import agreements can be concluded for the same amounts following the expiration dates of such existing agreements.
- d) New gas purchase connections can be established with relevant countries with the purpose of exportation or in case a lack of national natural gas supply occurs.

As such in the stipulation mentioned above, under the current regime, the provisions herein contained does not apply to the import of the liquefied natural gas (“LNG”).

Within the first amendment of the draft law, the spot pipeline natural gas as well as compressed natural gas (“CNG”) are also excluded from the above-stated stipulations. Hence, if the said draft law is enacted with its present form, then the spot pipeline gas and CNG will have the same exceptions as LNG for the abovementioned stipulations of the Law and as a result an import license will not be required anymore for the importation of spot pipeline natural gas and CNG.

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However, in addition to the above changes, within the draft law, EMRA is granted the authority to determine the amount of spot pipeline natural gas to be imported within a year and the modus operandi pertaining thereto, by taking into consideration the opinion of the Ministry of Energy and Natural Resources on the matter. Hence, the market liberalization for the spot pipeline natural gas will only be enjoyed within the quantity limit and operational framework to be drawn by EMRA.

Second Amendment

Within the second alteration of the draft law, further exceptions, which are already applied to the LNG, are granted to the importation of the spot pipeline natural gas and CNG as well.

In the current version of the Law, several conditions are set forth for the issuance of the import license, which is required to import

natural gas into Turkey, for the companies applying for the said license:

- a) The company having applied for the import license must have the definite information and guarantee regarding the source, reserves, production facilities, and transmission system of the natural gas to be imported.
- b) The company must obtain such commitment and guarantees, as required by the EMRA, from the legal entities which are to conduct storage activity, concerning the ability to store an amount corresponding to 10% of the natural gas to be imported every year, in the national territory for five years.
- c) The company must be capable of contributing to the improvement and security of the national transmission system, and accordingly, must provide financial support to the investments of the legal entities that are to engage in the improvement of the system.
- d) The import company must obtain licenses for each import connection it will establish; and, it must inform the EMRA of the terms of the agreements, extensions of the terms, envisaged annual and seasonal import amounts, the changes in such amounts, and the obligations related to the security of the system which are stated in the agreements or in any extension thereof.

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None of the above-mentioned conditions apply to the companies importing LNG under the current law. If the draft law is enacted with its present form, these stipulations will not apply to the companies which import spot pipeline gas and CNG as well.

Background and Potential Effects of the Draft Law

Within the preamble of the draft law, it is stated that the purpose of the proposed change in the Law is to enable the import of the spot pipeline natural gas and CNG instantly, i.e. without requiring a long-term agreement, for the purpose of meeting the needs arising from daily and seasonal changes, meeting the deficit of natural gas that may occur due to a decrease of the natural gas supply or the

cessation thereof, and ensuring an uninterrupted and consistent consumption of natural gas by providing a perdurable supply thereof.

The draft law has already been examined and agreed by the planning and budget commission of the Parliament; and it is anticipated to be submitted to the Parliament for the enactment process between February 26th and March 2nd. However, due to the fact that the draft law in question has been prepared in a form of omnibus bill, it may take around up to 1 month, commencing from its submission to the commission, until it is put into force by the Parliament. Under these circumstances, the draft law may be enacted within March 2018 depending on the speed of the enactment process by the Parliament.

As a result of the enactment of the draft law, import of the spot pipeline natural gas and CNG will be facilitated. Under the current regime, a ten-year contract for each import connection is sought by EMRA in order to apply for an import license for importing pipeline natural gas into Turkey. By bringing an exception for the spot pipeline natural gas (contracts with a term less than one year) together with CNG, it will be possible for the import companies to import natural gas into Turkey without having to comply with the strict conditions of the current natural gas regime.

Still, such liberalization attempt has its own limitations as the lawmaker reasonably prefers to give the regulatory authority, i.e. EMRA, the control over the operational framework and the quantity of the spot pipeline natural gas to be imported into the country as it is a strategic commodity and the national grid has its own capacity. It should be expected that EMRA will draw such framework by taking into consideration the demand as well as the quantity of the natural gas already being imported by BOTAŞ.

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