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Doing Business in Iran: Donald J. Trump; Mining Investment Opportunities

By Shahram Safai | January 2017

The election of Mr. Donald J. Trump as President of the United States has resulted in much consideration by corporates of existing strategies with respect to Iran. Mr. Trump's lack of experience in public office and some of his election campaign statements continue to cause anxiety. Will Mr. Trump tear up the Iran nuclear agreement and re-negotiate? Will he impose further sanctions on Iran? However, despite his election campaign rhetoric, his 100 day plan which appeared on YouTube on November 21, 2016 and his press conference of January 11, 2017 focused almost solely on domestic issues to the exclusion of foreign policy. Mr. Trump has also amassed more billionaires in his cabinet than ever before in US history. Hence, Mr. Trump's approach to foreign policy may shape up to be more business driven and "transactional in nature" rather than Pax Americana driven (for example, no longer anti-Russian). He has reinforced this message by appointing a Secretary of State, Rex Tillerson, who is the CEO of Exxon Mobil which is one of the original 'Seven Sisters' oil companies with a deep history in Iran. At the end of the day, it's always difficult to predict such matters. However, with respect to Mr. Trump's foreign policy intentions, the fog does appear to be lifting somewhat.

Mining Investment Opportunities

Although foreign investment in Iran has slowed since September of 2016 due to the US elections, a resurgence is expected after Mr. Trump takes office given that there will be more clarity. One industry which offers much promise in Iran is the mining industry. Iran has the world's largest zinc reserves and the second largest copper reserves. It also has significant coal, gold, manganese, chromate, lead, uranium and iron reserves. The government of Iran owns 90% of all mines and related industries (under state-owned company Iranian Mines and Mining Industries Development and Renovation Organization). However, there has been a concerted effort to attract foreign investment by promotion of the privatization of all mines under Article 44 of the Constitution of Iran.

Foreign Investment in Mining

Iran is actively searching for foreign investment in the mining industry. A foreign investor can invest in the Iranian mining industry through a local company in Iran. Unlike many other countries in the region, there is no obligation to enlist a local partner and a foreigner can be the 100% owner of such Iranian company.

Also, under the Foreign Investment Promotion and Protection Act, 2002 ("FIPPA") a foreign investor has multiple legal protections. For example, by sovereign guarantee from the Iranian government, if a foreign investment is affected by expropriation or nationalization, compensation will be paid; all invested capital and resulting profit of a foreign investor in Iran can be repatriated; and the foreign investor will receive the same treatment afforded to domestic investors.

With respect to governmental permissions for foreign investment in the mining industry, the foreign investor needs to obtain an investment licence from the Organization for Investment Economic and Technical Assistance of Iran, and apply for and obtain an activity licence from the Ministry of Industry, Mine & Trade ("MIMT"). In this regard, the foreign investor will be required to prepare an exploration operations report for submission to the MIMT. If approved, the foreign investor can apply for an exploration certificate (by submitting a production plan). Subject to approval, the company will then be issued an exploitation licence (which is subject to certain tax exemption periods).

Given the Trump administration's "transactional" approach to foreign policy, the Iranian government's willingness to facilitate mining investment in Iran and the protections afforded to foreign investors in Iran, the time may be ripe for serious consideration of such mining investment opportunities in Iran. ■

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Shahram's practice consists of corporate law, real estate law, disputes, and advising on the legal aspects of doing business in Iran. He also advises on private equity and venture capital transactions. He heads the firm's Iran, real estate and venture capital teams and has been highly sought after by boards and shareholders for strategic legal advice. He is active in lobbying for, providing constructive feedback to and advising government organizations regarding regional laws and regulations pertaining to doing business, real estate and venture capital investment.

His Iran practice involves advising clients with respect to investments, joint ventures, as well as introduction to sector specific private and public entities in Iran. Such advice generally involves franchise and agency matters, build-operate-transfer transactions, regulatory compliance and strategies, foreign investment protection regimes, sanctions and anti-money laundering implications. Shahram is fluent in Farsi and he is a qualified solicitor in England and Wales and a member of the California State Bar. He is also a registered professional engineer.

Shahram's specific Iran related work has included advice relating to:

- Manufacturing sector joint ventures, commercial agency arrangements and local partner introduction.
- Onshore and Free zone entry advice, incorporation and liaison.
- Private equity transactions involving financial institutions.
- Build-operate-transfer arrangements related to the oil and gas sector.
- Hospitality industry legal and regulatory matters as well as related construction matters.

Shahram is described as "a cut above the rest with thorough knowledge, sharp analytical prowess, understanding of the industry, good relationships with government authorities and the best of communication skills" (Legal 500 EMEA). He is described as "quick, responsive and forthright" and a "Leader in [his] Field" (Chambers Global).

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