Reforming the mining sector

By NICK LYNE
Senior Staff Writer, FIRST

Guatemala's mining sector has attracted growing FDI, creating a high-performance industry based around large scale projects

Over the last decade, thanks to the possession of some of Latin America's largest deposits of gold, nickel and other minerals, Guatemala's mining sector has attracted growing international investment, which has helped create a high-performance industry based around large-scale projects at mines such as Escobal, Cerro Blanco, FeNix, Mayaníquel, Montúfar, and San Juan Sacatepéquez

Dominated by Canadian FDI, there are currently 11 foreign companies in the mining sector, mostly involved in the exploration and extraction of gold and nickel, which between them account for around 95 per cent of the value of total mining output, all of which is destined for export.

Canada's Goldcorp is the largest mining company in Guatemala, and since 2005 has been running the Marlin project, the country's leading gold mine, in which the company has invested more than US$200 million. In 2010, Goldcorp began extraction at its second mine, Cerro Blanco, where it has invested US$77 million. At the end of 2012, the deposit contained 1.3 million ounces of indicated gold resources at an average grade of 15.64 grams per tonne and 0.7 million ounces of inferred gold resources at an average grade of 15.31 grams per tonne. But in light of recent declines in metals prices the company has indefinitely suspended work at Cerro Blanco indefinitely. Care and maintenance activities will continue at the site, and project development plans will be revisited as market conditions warrant, according to the company.

Light at the end of the tunnel: close to US$4 billion is expected to be invested in the sector in the next year

After gold, nickel is the second most important commercial mineral in Guatemala: one of the 10 largest known nickel deposits in the world is located in the department of Izabal.

Compañía Guatemalteca de Níquel (CGN), acquired by Solway Investment Group in 2011, has two mining exploration licenses in Izabal at the FeNix and Montúfar projects. FeNix has an operating licence and environmental studies approved by the Ministry of Environment. The operating licence for the Montúfar project is currently pending.

Solway says it plans to invest up to US$1.6 billion over the next five years, with the eventual goal of doubling the operation's current production, bringing it to 150,000 tonnes of ferronickel and 50,000 tonnes of nickel per annum.

Mining and Energy Minister Erick Archila says that Guatemala has established a stable legal framework focused on establishing competition and dynamism in the sector. The country's strategic geographic location allows the export of mining products from either the Atlantic or Pacific Oceans. Guatemala also has a skilled labour force.

Mining production is currently worth around US$1 billion annually, and according to the minister, close to US$4 billion is expected to be invested by next year.

Substantial changes have been made to Guatemala's mining laws over the last decade, designed to attract investments into the sector. These have seen a decrease in the royalties paid to the State from 6 per cent to 1 per cent of the national market or international stock exchange value, split equally between the national and municipal governments. Foreign institutions are now allowed to own up to 100 per cent of the concession. The requirement for import taxes to be paid for machinery, equipment and production goods for mining has also been eliminated. The principal components of the mining fiscal regime are taxes, royalties, and private funds. Applicable taxes include corporate income tax, value added tax, and the single property tax.

Mining licenses are granted by the Ministry of Energy and Mines (MEM). Applicants for reconnaissance and exploration licenses must submit an environmental mitigation study. Applicants for exploitation licenses must submit a more comprehensive environmental impact study (EIS) to the Ministry of Environment and Natural Resources (MARN).

In January of 2012, the association of mining companies signed a voluntary agreement with the government to pay higher royalties. Under this agreement, industrial minerals are not affected, but gold and silver companies pay 4 per cent and base metals pay 3 per cent.

Later that year, the government proposed reforms to the mining law that attempt to address social, economic, and environmental issues. These reforms include a voluntary higher royalty rate of 5 per cent, establishing a mining fund to distribute royalties to local governments, requiring community consultation, and addressing environmental concerns and mine closure issues.

"The reforms will redefine and strengthen national mining laws and eliminate the voluntary payment of taxes. If approved, the taxes will be obligatory for the mining sector," Mr Archila said at the time, adding: "There are companies that want to partner with the state to have a better capacity to operate within the country. It will create more order and responsibility in the mining sector and won't affect investments in the country."

As of August 2013, 85 Exploration Licenses and 284 Exploitation Licenses had been authorised. A total of 444 exploration licenses and 150 exploitation licences have been pending since the government announced it intended to impose a two-year moratorium on licenses in July 2013.

The government says it hopes the request for the moratorium will also encourage Congress to speed up the passage of the reforms to Guatemala's mining laws. "We hope Congress opens a great debate so we can have a law that is in accordance with all our needs," President Otto Pérez Molina said last year.

For a moratorium to pass, Guatemala's 158-member Congress must approve it with a majority vote in three separate debates.

It remains unclear when those votes will be cast due to an extended backlog of pending legislation. Last year, Guatemala's government, under pressure from the industry, withdrew a proposal to acquire as much as a 40 per cent stake in new mining projects. F

There are 11 foreign companies in the mining sector, mostly involved in the exploration and extraction of gold and nickel

Extractive transparency

In March this year, Guatemala joined the Extractive Industries Transparency Initiative (EITI), the global standard for extractive industries to improve transparency, accountability and governance in resource-rich countries through the verification, reconciliation and publication of company payments and government revenues from oil, gas, and mining.

The EITI process must be overseen and implemented in a transparent manner by a multi-stakeholder group. EITI is thus the most significant and leading international effort to improve transparency in extractive industries, particularly in the third stage above involving the generation, payment, and receipt of resource revenues. While it will be challenging for any one initiative to provide a comprehensive resolution for transparency issues in all these stages, EITI is the most important advancement in this direction given its multi-stakeholder approach and its stringent reporting and compliance requirements.

Following the announcement, Roxana Baldetti, Vice President of Guatemala, said: "The Government of Guatemala expresses its satisfaction with the decision of the EITI Board and reaffirms its commitment to transparency as an essential element of the management of natural resources that belong to all Guatemalans."

Foreign players operating in Guatemala have also welcomed the news. Mario Marroquín, Executive Director at Goldcorp Guatemala, said: "This decision strengthens the EITI Standard as the reporting rule for the industry's payments in Guatemala. We are confident that this will help to establish transparency as the rule of the game in the natural resources sector."

Anglo-French oil independent Perenco was a member of the Commission, taking into account the importance of the oil operation for the country's economy, through which Perenco Guatemala generates for the state more than ninety per cent of income from the oil sector, making it one of the largest contributors.

Participation in the EITI begins with a country first attaining "candidate" status through compliance with initial sign-up requirements. Once a candidate, a country has 30 months to continue implementation, toward the end of which time the process needs to be validated to assess compliance with 20 requirements.

Mining and oil still represent a small share of total FDI, contributing less than 5 per cent to GDP. Despite high potential and some investment in the extraction of nickel and gold, the sector continues to underperform, in part due to long-standing opposition from local communities and the sensitive issue of land distribution and exploitation in the country. The government believes that Guatemala's compliance with the EITI will make a major contributing toward helping to convince local communities of the contribution of mining to the national and regional economies.