

New Mining Legislation passed in Tanzania – Impact on the attractiveness of future Mining Projects Investment?

On the 10th July 2017, new legislation was signed into law by Tanzanian President John Magufuli. The new legislation which broadly looks at increasing royalties tax on gold and other minerals, were passed by parliament last week despite opposition from the mining industry body. The President was quoted as saying, “Tanzanians’ must benefit from our God-given minerals and that is why we must safeguard our natural resource wealth to ensure we do not end up with empty mining pits”.

In addition to the new changes, summarised below, no new mining licenses would be issued until Tanzania “puts things in order” and that the government would review all existing mining licenses with foreign investors.

A high level summary of the new respective Act’s and salient features of the changes are summarised below:

- The Written Laws (Miscellaneous Amendments) Act 2017;
- The Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act 2017; and
- The Natural Wealth and Resources (Permanent Sovereignty) Act 2017,

The significant changes in the tax and regulatory regime governing mining as well as upstream petroleum include:

- Tax depreciation for mining capital expenditure to move to 20% straight line (instead of 100% deduction), and depreciable cost shall not exceed the cost of investment as determined by the Mining Commission;
- No input tax credit for export of raw minerals;
- Minimum Government non-dilutable free carry of 16%;
- Royalty rates for gemstones, diamonds and metallic minerals increased to 6%;
- Provision for renegotiation of Mining Development Agreements and Production Sharing Agreements; and
- Clauses on local content, corporate social responsibility and the requirement to make an integrity pledge.

However it would appear that there is more concern over Tanzanian Government’s right to tear up and renegotiate contracts for natural resources like gas or minerals, and remove the right to international arbitration.

Passage of the new legislation also followed months of wrangling between the government and the country’s biggest gold miner, London-listed Acacia Mining Plc, over mining contracts after Magufuli decided in March to ban exports of gold and copper concentrates to push for the construction of a domestic mineral smelter.

Tanzania is also pushing for the mandatory listing of mining companies on the Dar es Salaam Stock Exchange (DSE) by August as part of measures aimed at increasing transparency and spreading wealth from the country’s natural resources.

It is clear that the general unattractiveness of the changes to an international investor, is likely to have an enormous impact on future projects related to the mining and energy industries, in addition to significantly impacting a number of resources companies with existing operations.

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