

Update on ICSID Arbitration – Republic of Tanzania

Highlights

- ICSID Arbitration continues over Tanzania’s illegal expropriation of the Ntaka Hill Nickel Project
- Tanzania has now filed its Counter-Memorial in response to Claimants’ Memorial lodged in July 2021
- Indiana currently reviewing Counter-Memorial and underlying documentation in order to respond
- Claim for Compensation remains at US\$ 93.7 million including interest, which continues to accrue
- Confirmed timetable for arbitration with conclusion scheduled for mid-2023
- All legal costs funded through US\$ 4.65m litigation funding facility
- The Company remains highly confident of its Claim to Compensation and its ability to recover funds

Indiana Resources Limited (**ASX: IDA**) (**‘Indiana’** or the **‘Company’**) provides the following update on arbitration with the United Republic of Tanzania over the expropriation of the Ntaka Hill Nickel Project (**“the Project”**) and other breaches of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Republic of Tanzania for the Promotion and Protection of Investments (**“UK-Tanzania BIT”** or **“BIT”**).

As the majority shareholder in Ntaka Nickel Holdings Ltd (**“NNHL”**) and Nachingwea UK Ltd (**“NUK”**) (both incorporated in the United Kingdom), Indiana is the manager of the Joint Venture Project and is responsible for all activities with regards to the arbitration. Together NUK, NNHL and its subsidiary Nachingwea Nickel Limited (**“NNL”**) constitute the **“Claimants”**.

The Company confirms that the United Republic of Tanzania has lodged its Counter-Memorial in response to the Claimants’ Memorial submitted in July 2021 that set out their claims with ICSID (The International Centre for Settlement of Investment Disputes), an organisation of the World Bank Group. **The Memorial contains the basis for compensation to the Claimants for US \$93.7 million, that includes interest which continues to accrue.** (See ASX Release 26 July 2021.)

Indiana’s Executive Chairman Bronwyn Barnes said: *“Now that we are in receipt of defence documents submitted by the United Republic of Tanzania, we will complete our review and prepare our response. We are extremely committed to pursuing our rights through International Arbitration and have confidence in the Arbitral process that is governed by ICSID. We remain supremely confident in our compensation claim of US \$97.3 million for the illegal expropriation of the Ntaka Hill Nickel Project, an asset that would have tremendous value in the current market.”*

CAPITAL STRUCTURE

434,946,960
Shares on Issue
A\$0.064
Share Price
27M
Market Cap

BOARD & MANAGEMENT

Bronwyn Barnes
Executive Chair
Robert (Bob) Adam
Non-executive Director
Felicity Repacholi-Muir
Non-executive Director

Aida Tabakovic
Joint Company Secretary
Trevor Harris
CFO & Company Secretary
Gary Ferris
General Manager Exploration

CONTACT US

+61 (8) 6241 1870
info@indianaresources.com.au
www.indianaresources.com.au
Suite 3, 339 Cambridge St,
Wembley WA 6014



LALIVE is representing the Claimants in the arbitration process. A litigation funding facility for US\$4,653,400 is in place with Litigation Capital Management Limited (“LCM”), a firm listed on the Alternative Investment Market (“AIM”) of the London Stock Exchange. This funding facility covers all legal costs associated with arbitration and is only repayable in the event of a successful award that is recovered from the United Republic of Tanzania. The arbitration case is heard by a 3-person tribunal and is expected to conclude in H1 2023 with a formal decision handed down by the tribunal in mid-2023.

Background to Claim

In July 2017, the Government of Tanzania amended the Mining Act 2010 by, *inter alia*, abolishing the legislative basis for the Retention Licence classification with no replacement classification.

On 10 January 2018, Tanzania published the Mining (Mineral Rights) Regulations 2018, which cancelled all Retention Licences issued prior to 10 January 2018 at which point they ceased to have any legal effect. The rights over all areas under Retention Licences, including the Retention Licence held for the Project, were immediately transferred to the Government of Tanzania.

During the time from January 2018 to December 2019, the Company actively engaged with the Tanzanian Minister for Minerals and the Mining Commission in an effort to resolve a suitable tenure mechanism for the Project Licence to be reinstated.

At all times Tanzanian Government representatives reassured the Claimants' representatives, as well as Indiana Board members that visited Tanzania for the purpose of collaborative engagement with the Government, that their historic investment would be recognised and that their rights would be respected and protected.

On 19 December 2019, the Mining Commission of Tanzania announced a public invitation to tender for the joint development of areas covered previously by Retention Licences. The invitation provided that the successful bidder should compensate the previous Retention Licence holder for its exploration costs incurred. This public invitation was not sent to the Company or the Claimants but was advertised on the website for the Ministry of Energy and Minerals.

On 20 December 2019, the Mining Commission of Tanzania announced a revised public invitation to tender, which removed the condition that the successful bidder compensate the previous retention licence holder for its exploration costs incurred.

Through the measures described above, Tanzania has removed the ownership of the Project from the Claimants, and in doing so has breached its obligations to the Claimants under the UK-Tanzania BIT and international law. These include, but are not limited to:

- a) Tanzania's obligation not to nationalise or expropriate the Claimants' investments or subject them to measures having effect equivalent to nationalisation or expropriation without prompt, adequate and effective compensation under Article 5(1) of the BIT; and
- b) Tanzania's obligation to accord fair and equitable treatment and full protection and security to the Claimants' investment and not to impair by unreasonable or discriminatory measures the maintenance, use, enjoyment or disposal of the Claimants' investment under Article 2(2) of the BIT.



Article 8(3) of the BIT provides that the Claimants may submit the dispute to ICSID if the Claimants and Tanzania are unable to reach an agreement concerning the dispute within six months of the dispute arising (in this instance from the date of the Claimants' notice of dispute being 14 January 2020).

The Claimants have engaged LALIVE, an international law firm, to act on their behalf. LALIVE has offices in Geneva, Zurich and London, and specialises in international arbitration. The firm has extensive experience in international investment arbitration concerning mining and other natural resources and is representing investors and States as counsel worldwide.

The ICSID Convention has been ratified by 155 States, including Tanzania. An award issued by an ICSID tribunal is enforceable in any one of those 155 member States as if it were a judgment of one of their own courts. Partly because of this, States have overwhelmingly and historically complied voluntarily with the payment terms of such awards.

Ends

This announcement is authorised for release to the market by the Chairman of Indiana Resources Limited with the authority from the Board of Directors.

For further information, please contact:

Bronwyn Barnes
Executive Chair
T: +61 (0) 417 093 256

Trevor Harris
Joint Company Secretary
T: +61 8 6241 1870

Aida Tabakovic
Joint Company Secretary
T: +61 8 9481 0389

To find out more, please visit www.indianaresources.com.au

Forward Looking Statements

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