

Publication of ICSID Award

Highlights

- The full ICSID Award is now available on the Company's website
- The Award documents the reasons for the Tribunal's decision to award the Claimants more than US\$109.5million (including accrued interest) for the unlawful expropriation of the Ntaka Hill Nickel Project
- The decision of the Tribunal was unanimous and dismissed Tanzania's objections and arguments
- The total amount payable by Tanzania under the Award now stands at US\$110.2million plus costs of \$4.28million
- Interest continues to accrue at the rate of US\$1million per month

Indiana Resources Limited (**ASX: IDA**) ("**Indiana**" or the "**Company**") provides the following update on the dispute with the United Republic of Tanzania ("**Tanzania**") which was the subject of arbitration through the International Centre for Settlement of Investment Disputes ("**ICSID**").

As the majority shareholder in Ntaka Nickel Holdings Ltd ("**NNHL**"), Nachingwea UK Ltd ("**NUK**") (both incorporated in the United Kingdom), and Nachingwea Nickel Ltd ("**NNL**", incorporated in Tanzania); together known as the "**Claimants**", Indiana is the manager of the Joint Venture and responsible for activities relating to the arbitration against Tanzania.

The full Award documentation from the ICSID Tribunal that unanimously ordered Tanzania to pay more than US\$109.5million plus costs for the unlawful expropriation of the Ntaka Hill Nickel Project is now available on the Company's website indianaresources.com.au. Tanzania previously objected to the publication of the Award on ICSID's website but given Tanzania's recent request for annulment of the Award, the Company has made the Award available to ensure shareholders have an accurate and correct understanding of the basis for the Award.

Commenting on the publishing of the ICSID Award, Executive Chairman Bronwyn Barnes said:

"I am very pleased that shareholders can now read for themselves the findings of the Arbitral Tribunal in the Award delivered on 14 July 2023. It is very clear from the Award document that the Claimants' investment in Tanzania was unlawfully expropriated on 10 January 2018, and the amount of compensation owed by Tanzania to the Claimants for loss of their investment is well considered and appropriate given the circumstances surrounding the expropriation. It is also clear from the Award document that Tanzania's objections and arguments during the course of arbitration were dismissed by the Tribunal."

CAPITAL STRUCTURE

535,676,061
Shares on Issue
A\$0.055
Share Price
29M
Market Cap

BOARD & MANAGEMENT

Bronwyn Barnes
Executive Chair
David Ward
Non-Executive Director
Robert (Bob) Adam
Non-Executive Director

Kate Stoney
CFO & Company Secretary

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"States have overwhelmingly and historically complied voluntarily with the payment terms of awards under the ICSID Convention. We regard Tanzania's recent request for an annulment of this Award as an attempt to reduce international embarrassment around the Award and the historical actions of the Government that resulted in the loss of Ntaka Hill. The Award document from ICSID clearly demonstrates that our claim for compensation was justified and appropriate, particularly as the Project site is no longer vacant and is now being illegally mined with the knowledge of the government."

Award Summary

A summary of key points contained within the Award document, and the Tribunal's reasons for dismissing Tanzania's objections and arguments, is included below:

1. Jurisdiction

As a preliminary point, Tanzania disputed whether the Claimants' claims meet the jurisdictional requirements under the UK-Tanzania Bilateral Investment Treaty (**BIT**).

The Tribunal found that there is no doubt that the Tribunal had jurisdiction to hear the Claimants' claims, and Tanzania's jurisdictional objections were dismissed (on various grounds):

- The Tribunal considered that the Claimants satisfied the nationality requirements under the BIT and the ICSID Convention.
- The Tribunal was satisfied that the dispute concerns a qualifying "investment" of the Claimants in the territory of Tanzania, which satisfies the requirement under Article 8(1) of the BIT.
- The Tribunal also accepted the Claimants' evidence on the direct and indirect ownership of the Project by the Claimants from 2015 onwards, and that there is ample evidence to show that the Claimants had made capital contributions.
- The Tribunal was satisfied that the Claimants have made an "investment" within the meaning of the BIT and the ICSID Convention, and that the present claims arise out of that investment.
- The Tribunal accepted the Claimants' submission that the proper forum for such claims is arbitration under the BIT, and not the Tanzanian courts.
- The Tribunal concluded that the requirements of Article 8(3) of the BIT were satisfied and that the Claimants were entitled to institute the present arbitration proceedings.

2. Liability

The Tribunal unanimously found that there has been unlawful expropriation of the Claimants' investment in breach of Article 5 of the BIT.

In reaching that conclusion, the Tribunal found that:

- The Project site is no longer vacant and illegal mining operations are taking place at the Project site with the knowledge of the government.
- The photos, satellite images and testimony given by the Claimants' witnesses on the presence of illegal mining operations at the Project site was reliable and credible.
- The Claimants were permanently and substantially deprived of their investment in Tanzania.

- In particular, the Claimants' investment in Tanzania was expropriated on 10 January 2018, when the 2018 Regulations were published.
- Tanzania did not act in accordance with due process of law. This alone was sufficient to find that Tanzania unlawfully expropriated the Claimants' investment.
- Further, Tanzania's failure to pay or provide for proper compensation in and of itself renders the expropriation illegal.

3. Damages

On quantification, the Tribunal accepted that the appropriate standard of compensation under the BIT is the "fair market value" of the Claimants' investment.

The Tribunal was of the view that Tanzania's Mr Mwangakala, who was presented as a fact witness in the proceeding but whose evidence seemed to be mostly expert in nature, was not an independent expert, unlike the Claimants' expert Mr Travis Taylor. In fact, Mr Mwangakala did not provide a declaration of independence together with his witness statement, as required of experts under the Tribunal's Procedural Orders. The Tribunal concluded that Mr Mwangakala could not by any means be said to be independent from Tanzania.

Additionally, in the course of cross-examination, Mr Mwangakala admitted to a number of errors in his calculations of interest arising from "oversight", including, for example, admissions that he had applied the wrong start date, the wrong end date, the wrong currency, and the wrong interest rate.

It was not disputed that the amount of compensation owed to the Claimants is the fair market value of the Claimants' investment at the valuation date, less the proceeds from the sale of assets by the Claimants in mitigation of losses, plus any additional losses suffered by the Claimants.

Further, the Tribunal accepted that the valuation method to be applied in determining fair compensation to the Claimants is the cost approach. The cost approach estimates value based on historical costs incurred or amounts invested.

Pursuant to International Valuation Standards (IVS), the cost approach captures "all of the Costs that would be incurred by a typical participant". These costs include all direct and indirect costs that would be required to recreate that asset, including overheads and a profit margin such as a return to investors.

In accepting the calculations put forward by the Claimants, the Tribunal in effect adopted the Claimant's expert, Mr Taylor's, approach to calculation of damages and additional losses, based on exploration costs and management overheads incurred.

4. Interest

The Tribunal awarded compound interest as sought by the Claimants, in respect of both pre-Award interest and post-Award interest. Pre-award interest will run from the date of valuation, i.e. 10 January 2018. The Tribunal was satisfied that interest at a rate of USD Prime + 2%, compounded annually, constitutes a normal commercial rate.

5. Costs

The Tribunal was of the view that the "costs follow the event" approach is the most appropriate in this case.

As the Claimants were the successful party in this arbitration, the Tribunal found that it is reasonable for Tanzania to bear the full sum of the Claimants' arbitration costs, in the amount of US\$4,284,161.

Background to the Award

LALIVE and Boies Schiller Flexner LLP, two international law firms that specialise in international arbitration, represented the Claimants in the ICSID arbitration process. A litigation funding facility for US\$4.65m 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 legal costs incurred in relation to the BIT Arbitration up to the Award and is repayable on the successful enforcement of the Award against Tanzania. The current total repayment amount to LCM under the funding facility is approximately US\$17m. This amount will continue to increase until the facility has been repaid and closed.

ENDS

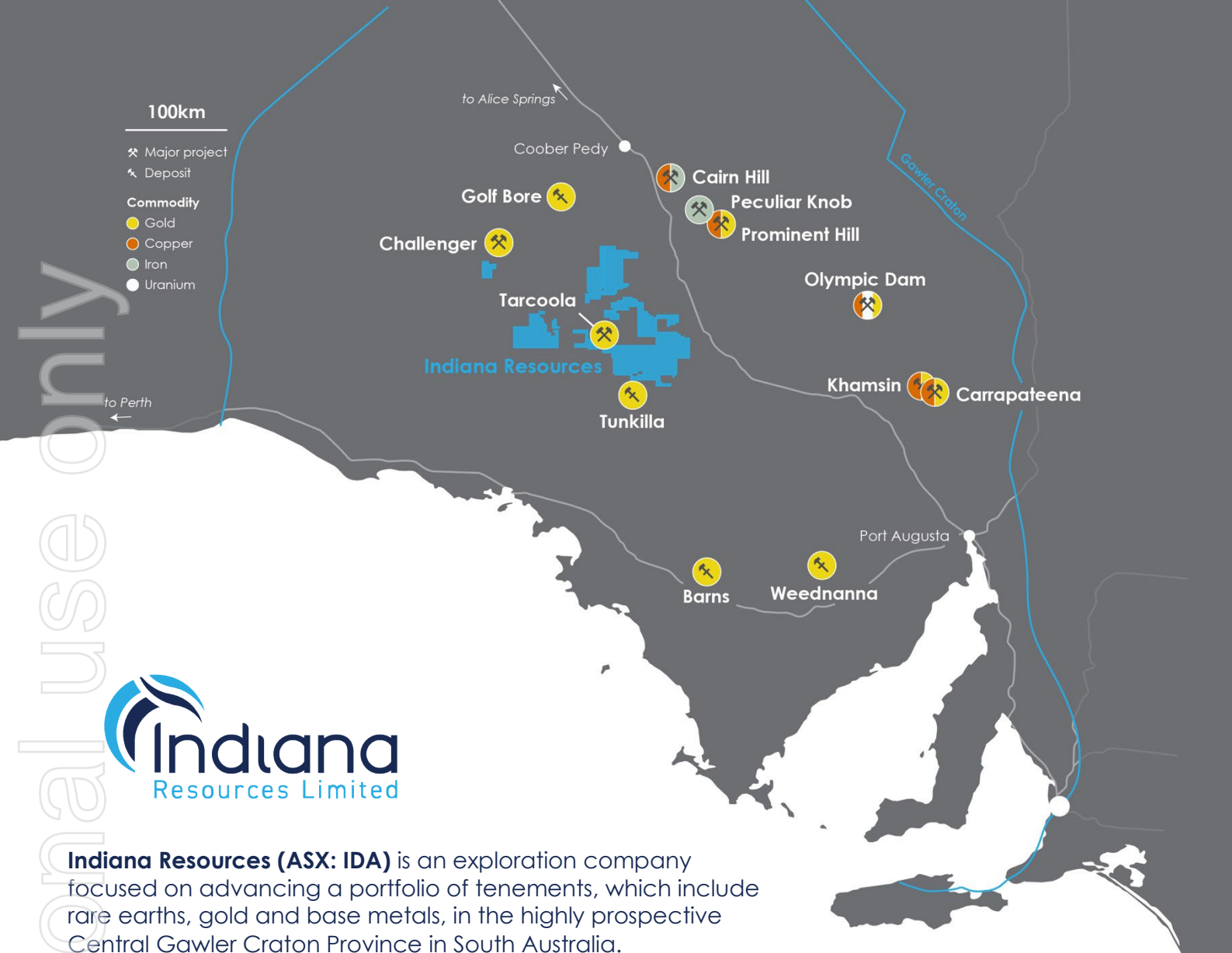
This announcement is authorised for release by the Chair of Indiana Resources Limited with the authority from the Board of Directors.

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Indiana Resources (ASX: IDA) is an exploration company focused on advancing a portfolio of tenements, which include rare earths, gold and base metals, in the highly prospective Central Gawler Craton Province in South Australia.

Indiana's ground position in the Gawler Craton covers 5,713km², with the Company's tenements strategically located between the historic gold mining centres of Tunkillia (965,000 ounce gold resource) and Tarcoola (15,800 ounce gold resource).

With a historical focus on gold, Indiana is progressing plans for a targeted Rare Earth Elements (REE) drilling programme. The Company benefits by its strategic positioning in a tightly held region, known for gold but with exciting REE opportunities.

Indiana has a tightly held register with benefits from strong support from major shareholders who are aligned with the Company's growth story.