

8<sup>th</sup> March 2021

## Update on Arbitration – Government of Tanzania

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- **Mr Cavinder Bull SC appointed as President of the Arbitration Panel**
  - **Arbitral Panel now fully constituted**
  - **First procedural hearing scheduled for 22<sup>nd</sup> April 2021**
  - **Claim for compensation is in excess of US\$ 95 million**
  - **All rights reserved to increase the compensation claim during arbitration**
  - **All legal costs funded through US\$4.65m litigation funding facility confirmed in August 2020**
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Indiana Resources Limited (ASX: IDA) ('Indiana' or the 'Company') provides the following update on the dispute with the Government of Tanzania over the illegal expropriation of the Ntaka Hill Nickel 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 for the Project and is leading activities with regards to this matter. Further background to the dispute and breaches of the UK-Tanzania BIT can be found in the latter part of this release.

The Company now confirms that following the registration of the Request for Arbitration ("RfA") with the International Centre for Settlement of Investment Disputes ("ICSID"), part of the World Bank, in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the "ICSID Convention") the arbitral tribunal has been constituted and will hold its first session on procedural issues on 22<sup>nd</sup> April 2021.

Mr Cavinder Bull, SC, (Singapore) has been appointed President of the Arbitration Tribunal, with Justice Sanji Mmasenono Monageng (Botswana) and Mr S Doak Bishop (United States) confirmed as arbitration panel members.

### **Company Comment**

#### **Indiana's Executive Chairman Bronwyn Barnes**

*"We are very pleased that the Arbitral Panel has been constituted and the date for proceedings to commence has been confirmed. We are well prepared to present our claim for compensation and reaffirm that US\$95 million is our minimum compensation claim. With a non-recourse litigation funding facility in place that provides for US\$ 4.65 million to cover all legal costs associated with arbitration we are confident that costs in relation to arbitration will not be borne by shareholders."*

## **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 Energy and 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 Investors' 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 Investors 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 Investors, and in doing so has breached its obligations to the Investors under the UK-Tanzania BIT and international law. These include, but are not limited to:

- i) Tanzania's obligation not to nationalise or expropriate the Investors' 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
- ii) Tanzania's obligation to accord fair and equitable treatment and full protection and security to the Investors' investment and not to impair by unreasonable or discriminatory measures the maintenance, use, enjoyment or disposal of the Investor's investment under Article 2(2) of the BIT.

Article 8(3) of the BIT provides that the Investors may submit the dispute to ICSID if the Investors 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 Investors' notice of dispute being 14 January 2020).

The ICSID Convention has been ratified by 154 States, including Tanzania. An award issued by an ICSID tribunal is enforceable in any one of those 154 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.

The Company has engaged LALIVE, an international law firm, to act on its 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 Company has also secured a Litigation Funding Agreement (“LFA”) for **USD4,653,400** with Litigation Capital Management Limited (“LCM”) - a firm listed on the Alternative Investment Market (“AIM”) of the London Stock Exchange. The LFA will cover legal costs in bringing the Claim to Arbitration against the Government of Tanzania on a non-recourse basis, ensuring that costs relating to arbitration will not be borne by Indiana’s shareholders.

**Ends**

*This announcement is authorised for release to the market by the Board of Directors of Indiana Resources Limited.*

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