

9th December 2020

Update on Arbitration - Government of Tanzania

- **International Centre for Settlement of Investment Disputes (“ICSID”) have formally notified the Government of Tanzania of the Request for Arbitration**
 - **Government of Tanzania have acknowledged the Request for Arbitration**
 - **Government of Tanzania have advised they will be represented by the Tanzanian Attorney General and Solicitor General**
 - **Indiana has nominated arbitration expert Mr R. Doak Bishop as its nominee to the arbitral tribunal**
 - **Arbitration expected to commence Q1 2021**
 - **Request includes claim for compensation in excess of US\$ 95 million**
 - **All rights reserved to increase the compensation claim during arbitration**
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Indiana Resources Limited (**ASX: IDA**) (**‘Indiana’** or the **‘Company’**) provides the following update on Arbitration 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.

In September 2020, the Company lodged a Request for Arbitration (**“RfA”**) under the BIT 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 RfA contains background to the dispute, a summary of the Claimant’s claims and an initial estimate of compensation for loss of the Project and damages sustained by the Investors resulting from the actions of the Government of Tanzania, which is currently in excess of US\$95 million.

ICSID sent the RfA to the Government of Tanzania in September and registered it in October 2020. Tanzania was invited to agree with the Claimants on a method of constitution of the arbitral tribunal. Tanzania has now formally advised ICSID that it will be represented by the Hon. Attorney General of the United Republic of Tanzania, Prof. Adelardus Kilangi and the Hon. Solicitor General of the United Republic of Tanzania, Mr. Gabriel Malata.

In the RfA, the Claimants had proposed that the arbitral tribunal consist of three members and nominated Mr R. Doak Bishop as their arbitrator panel member. Mr Bishop is a Partner in United States firm King & Spalding.

Tanzania has failed to engage with the Claimant's proposals concerning the constitution of the arbitral tribunal. The Claimants will consider in due course whether it is necessary to request that ICSID appoint Tanzania's arbitrator and the president of the arbitral tribunal. In any case, it is expected that the arbitral tribunal will be convened during the first quarter of 2021.

Once the arbitral tribunal has been appointed, the next step will be the preparation and filing of the Claimants' Memorial, which will include all evidence and supporting documents to support the Claimant's Claim for Compensation. Work on the Memorial is currently ongoing.

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.

Company Comment

Indiana's Executive Chairman Bronwyn Barnes said: *"We are pleased to see significant progress over the past 2 months in preparing to commence arbitration. We are well advanced in preparing our Memorial and present our full claim for compensation that includes the loss of the asset and damages resulting from the actions of the Tanzanian Government.*

With litigation funding in place that covers all legal costs associated with arbitration we are confident that shareholder interests are protected from further loss. US\$95 million remains our minimum claim for compensation and we are continuing to work on clarifying that number for arbitration."

Ends

This announcement is authorised for release to the market by the Board of Directors. For further information, please contact:

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

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:

- a) 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
- b) 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).

Further information on the Ntaka Hill Nickel Project can be found at the Company's website www.indianaresources.com.au.