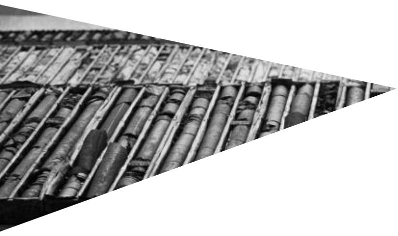
March 2015

Mining & Metals

Resource nationalism update



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Mineral-rich countries are ensuring that they are extracting sufficient economic rent for the rights of mining companies to exploit their resources. Each month, countries announce increases, or intended increases, in resource revenues via taxes, royalties, beneficiation or state ownership. Yet at the same time, we are now increasingly seeing countries change their laws to encourage mining investment.

EY's monthly update focused on mining and metals summarizes these legislative and taxation changes by country to help you better manage the implications of resource nationalism for your business.

Recent developments by type of resource nationalism		
Increases in taxes and royalties		
Indonesia	Zambia	
Mining reform		
Burkina Faso	Democratic Republic of the Congo	Gabon
Retreating resource nationalism – return focus to investment attraction		
India		
Government ownership		
Democratic Republic of the Congo		
Commodities impacted		
Coal — Indonesia	Copper — Mongolia	Iron ore — India

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Building a better working world

Resource nationalism by country

Australia

In a test case, the Australian Federal Court has rejected Rio Tinto's appeal over whether it was entitled to input tax credits (ITCs) of nearly AU$600,000 for certain acquisitions relating to remote accommodations for its workforce in Western Australia. The claims were rejected on the basis that the acquisitions were not for a "creditable purpose" but were instead related to making supplies that would be input-taxed.[1]

Burkina Faso

Burkina Faso has announced that the draft of a new mining code has been adopted to replace the 2003 code. The bill can now be passed to the National Transitional Council (NTC), which is acting as Parliament. The transitional government needs to pass the new mining code and an anti-corruption bill with some urgency as the World Bank has delayed releasing US$100m in budgetary support until the bills pass.[2]

Democratic Republic of the Congo

In the Democratic Republic of the Congo (DRC), a newly drafted version of the 2002 mining code has been referred to Parliament. The draft code includes:

- Increasing state participation in joint ventures, from 5% to 35%
- Reducing the length of exploration licenses from 15 to 6 years
- Increasing the corporate tax rate from 30% to 35%
- Adding a 6% royalty on non-iron and precious metal exports
- Amending stability clauses to prevent retrospective changes to legislation affecting existing contracts**3**

Gabon

It has been reported that on 30 January 2015, Gabon promulgated its new mining code, which contains several key changes to mining legislation, including:

- Making many changes to exploration permits, exploitation permits and concessions, including the number, size, requirements and state involvement in the event of transfer
- Mandating state participation of 10% with option for an optional participation of up to 25%
- Giving Gabonese people and companies priority to be employed for any supply and services
- Establishing an annual training program for Gabonese workers
- Mandating a portion of production to be allocated for domestic consumption in Gabon, depending on requirements
- Removing the tax exemption on securities income
- Adding a new exemption from corporate tax and the minimum lump-sum tax for the first five years of exploitation, which can be extended by three years for large projects[4]

India

The Indian Government may reduce the export duty for low-quality iron ore from Goa in order to boost exports. Goa is set to resume iron ore production in April following a two-year hiatus due to mining bans. Because of a 30% export duty, eight million tonnes of iron ore at ports have no market. The lower-quality ore tends not to be used in India as local steelmakers don't have the technology to use iron below 58%, so iron ore miners suggested a different duty structure to be applicable for Goa.[5]

Indonesia

The Indonesian Government is increasing its coal royalties in order to grow mining revenues and offset declines from the oil and gas industry. Low-rank coal will be taxed at 7% of total sales (up from 3%), mid-rank coal at 9% (up from 5%) and high-rank coal at 13.5% (up from 7%). The increase should be implemented before the end of the first quarter.[6]

Mongolia

Mongolia has moved to resolve a long-running dispute with Rio Tinto over expansion plans for the Oyu Tolgoi copper mine. The Mongolian Parliament has approved the expansion proposal as the Government seeks to increase foreign investment in the sector. The plans for an underground mine at Oyu Tolgoi were put on hold in 2013 due to dispute between Rio Tinto and the Government over cost overruns on the existing open-pit mine. The Mongolian Government has a 34% stake in Oyu Tolgoi.[7]

[1] "Rio Tinto Services Ltd v FCT [2015] FCA 94," Federal Court, Davies J, 19 February 2015.

[2] "Referral of draft mining code to Burkinabe parliament increases risk of state participation and local content requirements," IHS Global Insight Daily Analysis, 25 February 2015.

[3] "Referral of draft mining code to DRC parliament increases tax, contract review risks ahead of 2016 election," IHS Global Insight Daily Analysis, 12 February 2015.

[4] "New code, new opportunities?," *Mining Journal*, 27 February 2015.

[5] "India may cut iron ore export duty for Goa state," Reuters, 5 February 2015

[6] "Indonesia: Revenue target from coal & mineral sector raised," Hellenic Shipping News, 6 February 2015; "Indonesia Presses On With Higher Coal Royalty Fee to Boost State Revenue," *Jakarta Globe*, 7 January 2015.

[7] "Parliament has backed its new PM's plan to resolve the long-running dispute this year," Reuters, 19 February 2015.

Zambia

New Zambian President Edgar Lungu has plans to reverse the prior Government's royalty increases, but it may come too late to rescue investor confidence. Royalties were increased from 1 January from 6% to 20% for open-pit mining and from 6% to 8% for underground mining.[8]

Zambia has decided to relax the requirement for exporters to produce documents from destination countries to claim tax refunds. The move resolves a key problem impacting investment into the country. Zambia had been withholding the VAT payments from exporters without import certificates from destination countries. The mining industry claims that it is owed over US$600m as a result of the dispute and that it is impossible to produce these certificates as it sells to multinational trading houses.[9]

[8] "Zambia taxes investors' patience with changing royalty policy," Reuters, 6 February 2015.

[9] "Zambia simplifies VAT refunds to resolve row with mining companies," Reuters, 23 February 2015.

EY's Global Mining & Metals Center

With a volatile outlook for mining and metals, the global sector is focused on cost optimization and productivity improvement, while poised for value-based growth opportunities as they arise. The sector also faces the increased challenges of changing expectations in the maintenance of its social license to operate, skills shortages, effective execution of capital projects and elevated government revenue expectations.

EY's Global Mining & Metals Sector brings together a worldwide team of professionals to help you succeed — a team with deep technical experience in providing assurance, tax, transaction and advisory services to the mining and metals sector. The Sector brings people and ideas together to help mining and metals companies face the issues of today and anticipate those of tomorrow. Ultimately, it enables us to help you meet your goals and compete more effectively.

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