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Mining & Metals

Resource nationalism update

EY key contact

Andy Miller
Global Mining & Metals
Tax Leader
+1 314 290 1205
andy.miller@ey.com

Mineral-rich countries are ensuring that they are extracting sufficient economic rent for the right of a mining company to exploit that resource. This is becoming a common practice, with countries announcing increases or intentions to increase resource revenues via taxes or royalties each month.

EY's mining and metals-focused monthly update summarizes the 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	
Chile	Tanzania
Zambia	
Restriction of imports and exports	
Indonesia	
Retreating resource nationalism — return focus to investment attraction	
Australia	China
Mining reform	
Angola	Australia
Bolivia	Mongolia

Building a better working world

Resource nationalism by country

Angola

Angola is implementing fiscal reform and tax exemptions for foreign investors to simplify the tax system. Tax breaks are being used to create incentives for investment in the non-oil sector. This includes tax breaks of up to 15 years for foreign investors in a range of sectors, including mining.[1]

Australia

Two taxes in Australia impacting the mining industry are likely to be repealed this year. The Minerals Resource Rent Tax (MRRT) is likely to be repealed in the middle of the year when the balance of power changes in the upper house and the Green Party loses power. The carbon tax is also likely to be repealed by the new upper house as opponents claim it has only increased costs and done little to reduce emissions.[2]

In the May 2014 federal budget announcement, the Federal Government announced several tax measures specifically relating to taxpayers in the resources sector:

- Mining interest realignments – The Government will clarify venture partners in the minerals and petroleum industry, with prospective effect from 14 May 2013. This will remove a tax impediment to the efficient development of mining and petroleum projects. However, the measure will only apply in limited circumstances involving changes of ownership within a common project, for example, combining neighboring fields. The Government has not taken the opportunity to address tax impediments within broader portfolio realignments and asset swaps.
- Exploration development incentive (EDI) — The Government has confirmed its pre-election commitment to introduce an EDI. The A$100m EDI will be paid over three years as follows: A$25m in 2014-15, A$35m in 2015-16 and A$40m in 2016-17. The budget announcement contains no additional details as to how the EDI will be administered and the limited funds allocated.
- Deferral Division 855 amendments — Due to current litigation before the courts, the Government is deferring amendments announced by the previous Government to the foreign resident Capital Gains Tax (CGT) Principal Asset Test, which would value mining, quarrying or prospecting information and goodwill, together with their related mining rights.[3]

Bolivia

Bolivia has approved a new mining law, which denies cooperatives the right to partner with private companies, whether domestic or foreign. The law also bans private firms from registering minerals as property, which means they can't use them as collateral for loans or include them as assets in stock market filings. Bolivians, however, can now form mixed business enterprises with or through the state mining agency, Comibol. Until now, some of Bolivia's largest mines had operated as partnerships between exchange-listed multinationals and small local cooperatives. The new mining law, while bringing the sector in line with the 2009 constitution, will have an important impact on those operations, including Sumitomo's San Cristobal open-pit silver, lead and zinc mine. Under the revised regulations, which create a new government division to oversee the mining sector, all pre-existing contracts will be respected, though concessions will be limited to 62,000 hectares. Those whose terms and conditions do not conform to the new law can be renegotiated over 12 to 18 months.[4]

Chile

Chile's lower house of congress has approved legislation that will see a gradual increase of the corporate tax rate to 25% by 2017, from a current 20% rate, and the elimination of tax exemption for businesses that reinvest profits. The reform is not likely to come into law until September as it requires further approval; certain aspects of it could be retrospectively applied from 1 January of this year.[5]

China

China is considering lifting a ban on foreign ownership of domestic steel makers that was introduced in 2005 in a move that could see overcapacity in the sector addressed and new technologies brought in. In the past, Western companies have tried to gain a stronghold in the Chinese steel marketplace, seeing it as a potentially lucrative opportunity.[6]

Indonesia

Indonesia is drafting a new mining export tax that would more than halve the base rate to be paid by miners. However, doubts remain over whether it would be accepted by major copper miners and end the dispute that has halted concentrate exports. Indonesia's main copper concentrate producers stopped exports in January when the Government introduced new mining rules, including an escalating export tax. The new draft regulation means the export tax would start below 10% and will be linked to a company's progress in building a smelter. The draft tax still needs to be approved by Coordinating Economics Minister Chairul Tanjung and President Susilo Bambang Yudhoyono. The current copper export tax kicks in at 25% and rises to 60% in the second half of 2016, before a total concentrate export ban in 2017.[7]

[1] "Country Reports: Country Outlook: Business Environment: Tax: Policy Change Prospects: Analysis — Angola," IHS Global Insight, 24 June 2014.

[2] "UPDATE 1-Australia's opposition leader concedes carbon, mining taxes to go," Reuters News, 28 May 2014.

[3] "A work in progress: the 2014-15 Federal Budget Brief," EY, 14 May 2014.

[4] "Bolivia passes mining law that bans partnerships with multinationals," Mining.com, 5 June 2014.

[5] "Weighing it up," *Mining Journal*, 30 May 2014.

[6] "Production and markets," *Mining Journal*, 30 May 2014.

[7] "UPDATE 1-Indonesia sets mining export tax cut in draft regulation-official," Reuters News, 20 June 2014.

Indonesia also plans to reverse a rule that was going to force all tin solder exports to trade on a local exchange from January 2015. The move was designed to both stop illegal mining and give the country greater control over prices. The regulation was introduced last year and forced all tin ingot shipments to trade via a local platform before being exported. Tin solder was exempted until January 2015. The ruling has seen tin exports plunge; however, tin solder exports have increased as companies seek to avoid trading through a local exchange. After initial discussions over the possible bringing forward of the date for tin solder, the Indonesian Government has decided instead to exempt it altogether. The exception is in line with moves to support downstream industry. The new regulation will hopefully be approved before the presidential elections on 9 July.[8]

Indonesia is considering new regulations to limit coal production and tighten controls on exports. The rules, which could be introduced within a month, are deemed necessary by the Government, as demand for coal for power generation is expected to increase by 13% this year and next. Earlier this year, Indonesia said it hoped coal production would remain at or below 421mt in 2014, but the Government's ability to restrict output has yet to be proven, especially with elections approaching. The Government also hopes to impose new rules on shipments requiring miners to register themselves as exporters at the trade ministry, and coal shipments only allowed through selected ports. The rules would apply to all coal miners and would help make sure royalties get paid. They will also mean tighter government supervision, as the registration process requires proof of royalty payments, among other documentation.[9]

Mongolia

Planned amendments to Mongolia's resource sector laws could result in the country opening up more of its land to exploration. The amendments may be approved by Parliament within a month and will give companies mining and exploration access to about 20% of Mongolia's land — from about 8% currently — by overturning a 2010 ban on new licenses. Companies would also get extended licenses of 12 years as opposed to the current time frame of nine years. Mongolia hopes to attract some US$1 billion in new investments in its resources sector in 2014.[10]

Tanzania

Tanzania is reviewing mining contracts to ensure the Government gets a bigger share of revenues. The country is in discussions with miners to secure higher taxes and royalties following growing public demand for more benefits from mining. The discussions are focused on changing some contract provisions to generate more revenues for the state. For example Barrick Gold had agreed to start paying a service levy from July, equivalent to 0.3% of turnover, significantly higher than an annual payment of US$200,000 agreed to in the mining contracts. [11]

Zambia

The Zambian Government has announced plans to review mining sector taxes to boost revenue. Since coming to power in 2011, the Patriotic Front party-led government has sought to increase tax revenue from copper mining by imposing stricter oversight of tax processes and improving transparency in the sector. However, as the national election approaches in 2016, and pressure from activist groups and labor unions intensifies, the government is increasingly likely to raise tax rates or impose new taxes.[12]

[8] "Indonesia to amend tin export rules — officials," Reuters News, 16 June 2014.

[9] "Indonesia considers new restrictions on coal output, exports," Reuters News, 6 June 2014.

[10] "Report: Mongolia to amend resource laws, open up more land for exploration," SNL Financial, 29 May 2014.

[11] "Tanzania pressures miners for more cash," Reuters News, 2 June 2014.

[12] "Intensifying dispute with Vedanta Resources indicates growing risk of higher taxes for Zambian mining sector," IHS Global Insight, 23 June 2014.

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, effectively executing capital projects and meeting government revenue expectations.

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

Area contacts

Global Mining & Metals Leader
Mike Elliott
Tel: +61 2 9248 4588
michael.elliott@au.ey.com

Oceania
Scott Grimley
Tel: +61 3 9655 2509
scott.grimley@au.ey.com

China and Mongolia
Peter Markey
Tel: +86 21 2228 2616
peter.markey@cn.ey.com

Japan
Andrew Cowell
Tel: +81 3 3503 3435
cowell-ndrw@shinnihon.or.jp

Africa
Wickus Botha
Tel: +27 11 772 3386
wickus.botha@za.ey.com

Commonwealth of Independent States
Evgeni Khrustalev
Tel: +7 495 648 9624
evgeni.khrustalev@ru.ey.com

France and Luxemburg
Christian Mion
Tel: +33 1 46 93 65 47
christian.mion@fr.ey.com

India
Anjani Agrawal
Tel: +91 982 061 4141
anjani.agrawal@in.ey.com

United Kingdom and Ireland
Lee Downham
Tel: +44 20 7951 2178
ldownham@uk.ey.com

United States Leader
Andy Miller
Tel: +1 314 290 1205
andy.miller@ey.com

Canada
Bruce Sprague
Tel: +1 604 891 8415
bruce.f.sprague@ca.ey.com

South America and Brazil Leader
Carlos Assis
Tel: +55 21 3263 7212
carlos.assis@br.ey.com

Service line contacts

Global Advisory Leader
Paul Mitchell
Tel: +86 21 2228 2300
paul.mitchell@cn.ey.com

Global Assurance Leader
Alexei Ivanov
Tel: +7 495 228 3661
alexei.ivanov@ru.ey.com

Global IFRS Leader
Tracey Waring
Tel: +61 3 9288 8638
tracey.waring@au.ey.com

Global Tax Leader
Andy Miller
Tel: +1 314 290 1205
andy.miller@ey.com

Global Transactions Leader
Lee Downham
Tel: +44 20 7951 2178
ldownham@uk.ey.com

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