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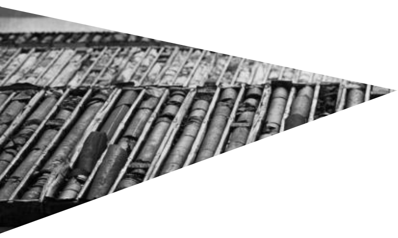
Mining & Metals

Resource nationalism update



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Recent developments by type of resource nationalism	
Government ownership	
South Africa	
Restriction of imports and exports	
Indonesia	
Retreating resource nationalism – return focus to investment attraction	
Brazil	India
Mining reform	
Brazil	Indonesia
Mali	Mozambique
Côte d'Ivoire	United States
Political risk	
Bolivia	

Building a better
working world

Resource nationalism by country

Bolivia

On 24 February, 9 of 28 mining concessions inspected by officials in La Paz have been reverted to the state. The authorities alleged that private operators had failed to conduct any mining operations at the sites. Whilst the names of the companies affected have not been released the reverted sites were reported to contain gold, zinc, lead, silver and limestone resources. The Ministry of Mining and Metallurgy said similar state inspections would take place over the next few days at 33 concession sites in Potosí department. The Government plans to inspect about 2,000 concessions across Bolivia during 2014 in accordance with the executive decree 1801, which regulates Law 403, known as the Mining Rights Reversion Law. The legislation empowers the state to expropriate what it defines as inactive, unproductive or idle mining projects.[1]

Brazil

Brazil's foreign trade chamber, Camex, has announced a reduction to the import tariff for primary aluminum to 2% from 6%, valid for 180 days. The benefit is limited to 39,000 tonnes and will expire on 17 August 2014. According to an official statement released by Camex, initially each company will be granted a maximum quota of 5,000 tonnes of the product for export.[2]

Separately, the Brazilian state of Pará has changed the collection point of the ICMS tax on fuel-oil purchases. The change to the ICMS tax (a tax on goods and services) is expected to increase costs for Norsk Hydro ASA's alumina and bauxite business by $24.8 million per quarter. The aluminum industry in Para has an ICMS deferral, which needs to be renewed by July 2015, resulting in an exemption on intra-state purchases of goods and services. However, the recent changes on fuel oil will move the collection point of ICMS from distributors to the oil refineries, which are located outside the state of Para.[3]

Côte d'Ivoire

Côte d'Ivoire is hoping to tap its immense mining potential after the National Assembly approved a new mining code, which replaces a heavily criticized version dating from 1995. Existing licensing procedures had deterred investors due to a lack of transparency, so the bill is designed to ensure clarity over how permits are allocated. Exploration licenses will be extended from 7 years to 10 years, with the possibility of a further two-year extension, and the legislation also grants a series of tax and customs incentives. A history of collusion between government officials and mining companies in the country could be disrupted by new rules stating that all officials with "access to strategic mining information" cannot participate directly or indirectly in mining companies until five years after the end of their service. [4]

India

India is likely to cut its import tax on gold to between 6% and 8% from the current level of 10%, a senior government official has said. Indian Government had gradually raised the import tax on gold to 10% from 2% since early 2012 to bring down the country's current-account deficit. It tightened restrictions further last year by asking importers to re-export at least 20% of the gold they bring into the country. The Government is now considering reducing the import tax as the current-account deficit is estimated to have fallen by almost half to about $45 billion this financial year ending March 31 from $88 billion last year. The import curbs have led to a sharp rise in smuggling of gold through India's airports and seaports and by land from neighboring Nepal and Bangladesh. Nearly all the gold consumed in India has to be imported, and official supplies through banks have nearly dried up.[5]

Separately, Indian Mines Minister Dinsha Patel has asked Finance Minister P Chidambaram to withdraw the recently levied 5% export duty on iron ore pellets following representation from the industry. The export duty was imposed on 27 January on the basis that in the form of pellets, iron ore was being exported without paying duties. The Pellet Manufacturers' Association of India (PMAI) had expressed apprehension that about INR 35,000 crore (almost US$570m) in investments would become non-performing assets due to the export duty, as domestic demand is too low and most of the manufacturers are running at less than 50% capacity. It had also said the investments were made by the industry following government policy measures of 2011–12 to promote manufacturing of iron ore pellets. However, continuation of the export duty on pellets would lead to the gradual closure of the units and thereby, impacting the livelihood of 80,000 people employed directly or indirectly by the industry.[6]

Indonesia

Indonesia will ease a controversial tax on mineral concentrate exports for firms that build smelters in the country, in the first rollback of new rules that have caused its mining industry to grind to a halt. The move is a potential victory for Freeport-McMoRan Copper & Gold and Newmont Mining Corp. About $500 million a month in ore and concentrate exports have stopped since President Susilo Bambang Yudhoyono imposed the mining rules in January, which included the progressive tax and a mineral ore export ban, to force companies to build smelters and process raw materials in Indonesia.

"The export tax can be changed. For those who have seriously committed to building smelters, we will ease it," said Sukhyar, director general of coal and minerals for the mines ministry. "The export tax can be lowered or maybe eliminated to zero percent." By contrast, Indonesian Government officials have said over the last few weeks that Jakarta would not back down from

[1] "Cancellation of mining assets in La Paz highlights ongoing expropriation risks in Bolivian mining sector," IHS Global Insight, 26 February 2014.
[2] "Brazil temporarily reduces aluminium import tariff," Metal Bulletin, 20 February 2014.
[3] "Norsk Hydro ASA - ICMS tax to impact bauxite and alumina business," ENP Newswire, 30 January 2014.
[4] "Ivorian mining code likely to boost gold production and trigger major investment in new sectors," IHS Global Insight, 27 February 2014.
[5] "India May Cut Import Tax on Gold," *Wall Street Journal Online*, 19 February 2014.
[6] "Withdraw export duty on iron ore pellets: Mines Minister to P Chidambaram," *The Economic Times*, 27 February 2014.

the export tax or any of the mining regulations passed last month.[7]

Indonesian trade ministry officials are in talks with the country's tin industry on making tin solder exports subject to a six-month old domestic trading rule, to close a loophole that has boosted solder shipments. Shipments of tin have been hampered by a regulation introduced in August 2013 that forces all tin ingot shipments to trade via a local platform before being exported. Tin exports plunged after the rule came into effect in a bid to halt illegal mining and give Indonesia greater control over prices. Exports have partly recovered but remain erratic, falling 50% year on year in January to 4,613 tonnes, including both ingots and solder. Unlike tin ingots, solder is not subject to the domestic trading rule until January 2015, which has caused a sharp spike in monthly tin solder shipments, from 756 tonnes last October to 1,460 tonnes in January.[8]

Mali

Mali will announce the cancellation of some mining licenses after it reviews permits signed by previous governments. An inventory of research and exploration licenses has begun, and contracts will be cancelled when companies are found not to be in compliance. Mines in production will also be audited to clean up the mining sector." A lot of licenses have been distributed in a disorderly manner, without any respect of (our) mining code. It has created disputes, and many of them are in court today." For now the review targets only research and exploration licenses and not those for mines already in production.[9]

Mozambique

Mozambique is close to finalizing a new fiscal regime for its mining and petroleum sectors and may raise royalty taxes for coal. Abdul Razak Noormahomed deputy mines minister said "probably coal can be a little bit higher, but we will see. It is going to be submitted this year and likely implemented by the end of this year". Currently, royalty taxes for coal stand at 3% lower than the 5% for base metals and 10% for diamonds. Noormahomed said Mozambique planned a flat rate of 32% capital gains tax on transactions in the mining and energy sectors for 2014. The main tax incentives for mining companies are five-year exemptions for value added tax and import duties for equipment and materials. The new fiscal regime review formed part of a broader regulatory overhaul in Mozambique, with amended mining laws expected to be passed this year.[10]

South Africa

South Africa’s Parliament may run out of time to process changes to mining and oil laws before adjourning ahead of 7 May elections. Proposed changes to the 2002 Mineral and Petroleum Resources Development Act include giving the state the right to a free 20% stake in all new energy ventures as well as compelling some mining companies to sell part of their output to local processors. Companies, including Anglo American and BHP Billiton, have said the measures will hurt business, discourage investment and may violate South Africa’s constitution and its international trade obligations.

“Quite frankly if it means taking the law over to the next Parliament, let it be rather than just passing it without deeply looking into the issues,” said Faith Bikani, the acting chairwoman of Parliament’s mineral resources committee. The law proposes giving the mines minister the right “to designate any mineral, mineral products or form of petroleum for local beneficiation,” and decide what percentage must be made available to processors after taking into account “national developmental imperatives.” It would also give the state the right to buy a further 30% stake in new energy projects at market-related prices.[11]

United States

In late February, the Chairman of the US Congress Committee on Ways and Means published a formal proposal to broadly reform the US federal income tax system. The proposal would reduce the corporate income tax rate from 35% to 25% over a five year period. It also would move the US to a largely territorial system with a 95% exemption for dividends paid by a foreign corporation to a US corporate shareholder that owns 10% or more of the foreign corporation. The proposal would eliminate the modified accelerated cost recovery system and lengthen depreciation lives for property placed in service after 31 December 2015. There are several provisions that will directly impact the mining industry such as the repeal of the percentage depletion allowance. The tax reform plan would repeal the alternative minimum tax system and provide for the refund of existing minimum tax credits by 2020. It is unlikely this legislation will be enacted in 2014, as is this is an election year in the US. However, this proposal will provide a framework for future debate and possible legislation in 2015 or 2016.[12]

[7] “Indonesia to ease export tax, 1st rollback of mining rules”, *Reuters News,* 24 February 2014
[8] "Indonesian trade ministry looks at closing tin export loophole," *Reuters News*, 19 February 2014.
[9] "Mali to cancel some mining licences – minister," *Reuters News*, 13 February 2014.
[10] "UPDATE 1-Mozambique may raise coal tax - deputy mines minister," *Reuters News*, 6 February 2014.
[11] "South Africa may delay mine law changes until after election," *Bloomberg*, 18 February 2014.
[12] Tax Overhaul Plan Faces Key Hurdles, *The New York Times*, 25 February 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.

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