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:**

**Government ownership**

- South Africa

**Increases in taxes and royalties**

- China
- United States
- Indonesia

**Restriction of imports and exports**

- Zimbabwe

**Retreating resource nationalism – return focus to investment attraction**

- Australia
- Mongolia

**Mining reform**

- China
- Senegal

**Political risk**

- Guinea
Resource nationalism by country

Australia
In Australia the repeal of the Mineral Resources Rent Tax (MRRT) bill was defeated in the Senate. The repeal was only narrowly voted down, by 35 to 32 votes, and the bill will therefore remain but is acknowledged to have many flaws. The projected revenue raised from the MRRT has been downgraded on several occasions, with the tax only raising AS$126 million in the first half of the 2012-13 financial year.1

China
China is looking to change the assessment of its resource tax on coal to being price-based rather than volume-based. This long-planned reform is aimed at encouraging more efficient use of coal, a significant air polluter in the country, though it will favor low-energy coal. The new coal tax will increase costs for miners, who may be unable to pass on the additional costs to consumers in an oversupplied market. Thermal coal miners in China are currently taxed at between 2 and 8 yuan per tonne based on production volumes. Under the draft proposal, the new coal tariff will be set at between 2% and 10% of sales value. At current prices, this could mean taxes of from 11 to 55 yuan per tonne, about five times more than present rates.2

Democratic Republic of Congo
Democratic Republic of Congo aims to double tax revenues from minerals as part of an overhaul of the mining code. Prime Minister Augustin Matata Ponyo has said the Government intends to increase tax revenues from mining to 25% of the national budget by 2016, from the current 14.5%. Mining companies have warned the Government that a revision of the 2002 mining code risked deterring investment. The new code had been due for release, but negotiations with the private sector have stalled over the Government’s push to raise royalties on minerals like copper and shorten stability clauses guaranteeing no changes to tax terms on projects.3

Guinea
A technical committee in Guinea has recommended the Government strip BSG Resources and its partner, Vale, of the rights to exploit the Simandou iron ore deposit. The panel alleges BSGR obtained the concession through corruption. BSGR vigorously denied the allegations of wrongdoing. “The review has been conducted throughout without any respect for basic due process and procedural fairness,” a BSGR spokesman said. The committee is the result of a review launched by President Alpha Conde in 2012 to clarify certain mining concessions granted under previous administrations.4

India
India’s Coal Ministry plans to impose a new levy on coal produced from captive mines by steel and cement manufacturers. The tax is proposed to be levied in addition to the royalty paid by steel and cement producers to the provincial governments where the captive coal mines are located. However, it has been clarified by the Ministry that captive coal mines operated by thermal power producers would not be included in the change. The Ministry has rationalized the levy on the grounds that, while captive coal mines owned by steel and cement companies ensured stable input costs for the latter, the prices of their finished products were market-determined, and hence, the new levy would equalize this unfair advantage in input costs. The quantum of the levy would be finalized in consultation with the Finance Ministry, which would be the final authority in announcing the tax. The additional levy is also intended to neutralize the advantage steel and cement producers enjoyed on account of having captive coal blocks allocated through the government preferential dispensation route as opposed to auction, which meant steel and power companies had not paid market-determined price for the natural resource.5

Indonesia
The Indonesian state anti-corruption body, the Corruption Eradication Commission (Komisi Pemberantasan Korupsi: KPK), has called on the Government to enforce regulations increasing royalty payment rates for mining companies. The KPK said the state was sustaining losses because 37 mining companies operating under the Contracts of Work (CoW) regime and 74 coal mining companies operating under the Coal Contracts of Work (CCoW) are not paying the rates established in a 2012 mining ministry regulation. The rates vary according to the type of mineral and the caloric value of coals. CoWs and CCoWs are decades-old contracts signed prior to the enactment of the 2009 Mining Law, under which the ministerial regulation was issued.6

Mongolia
The Mongolian moratorium on new mining exploration licenses could be lifted in the spring parliament session as the country works to lure foreign investment. The ban on the issuing and processing of licenses has been in place since June 2010, putting projects in the country in limbo. The parliament aims to address “many discrepancies” in previous mining laws.7

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1 “Macfarlane slams opposition as MRRT repeal is blocked in Senate,” Mining Weekly, 26 March 2014.
2 “China to change coal tax to price basis this year: Tax chief,” Reuters News, 10 March 2014.
4 “Panel says Guinea should strip BSGR, Vale of rights to iron deposit,” Reuters News, 7 March 2014.
5 “India’s Coal Ministry proposes new tax on captive coal mines,” Mining Weekly, 24 March 2014.
6 “Mining royalty rates likely to increase in Indonesia, but threat of retroactive rise unlikely to materialise,” IHS Global Insight, 4 March 2014.
7 “Mongolia may lift ban on new mining exploration permits -minister,” Reuters News, 5 March 2014.
**Senegal**

The Senegal Government's new 10-year foreign investment plan will offer investment opportunities in mining, power, energy and infrastructure projects. The Government is seeking US$21b in foreign investment in the country as part of the plan. President Macky Sall's Administration is seeking to attract investment in various sectors, including mining. Senegal's 2003 mining code is undergoing revision and will almost certainly be finalized this year. The new mining code is likely to reduce regulatory uncertainty for investors in terms of length of concession, penalties for environmental damage, compensation for host communities, and local content provisions. However, it raises the risk of contract renegotiations of existing concessions for tax increases, as well as reduction of tax breaks, as the Government seeks to increase its revenues from the sector. Government spokesperson Abdou Latif Coulibaly pointed out in December 2013 that Senegal had not adequately benefited from mining-sector profits over the past 10 years.8

**South Africa**

The South African National Assembly has endorsed the Minerals and Petroleum Resources Development Act (MPRDA) Amendment Bill, which will facilitate strategic nationalization of mining sector assets, enforce local processing requirements, impose export bans, and allow the Government to carry a 20% free interest in new upstream oil and gas ventures and acquire further interest at state-determined prices. The Amendment Bill, which governs the acquisition, use and disposal of mineral rights, is being pushed through parliament ahead of South Africa's general election on 7 May 2014. The law poses several serious risks to investors. Iron ore, coal, platinum and gold producers face the risk of export controls being imposed and of being forced to sell at a discount in the local market. Strategic nationalization and a resource rent tax are less likely but subject to a separate consultation process.9

**United States**

In February the Obama Administration published its fiscal 2015 budget proposal which included the repeal of percentage depletion for fossil fuels which would include coal and lignite. In addition, this proposal would repeal the deduction for mine development for fossil fuels (coal, etc.). This is the same proposals that have been included in the last three year's budgets and none of them have been enacted. However, as reported earlier a proposal by the House Ways & Means Committee in Congress (aka the "Camp Tax Reform Plan") would repeal percentage depletion for all minerals. The Camp Tax Reform Plan includes a significant reduction in the business income tax rate (from 35% to 25%) and the repeal of the alternative minimum tax (AMT) which will tend to offset the impact of this repeal on US based mining operations. Mining companies with operations subject to US income tax should be aware of these proposals and plan accordingly.

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10 “Zimbabwe’s chrome ore export ban likely to be relaxed, allowing producers to increase output and export revenue,” *IHS Global Insight*, 12 March 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.

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