

Resource nationalism update

Mining & Metals
March 2016

EY key contact



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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, which focuses on mining and metals, summarizes these legislative and taxation changes by country to help you better manage the implications of resource nationalism.

Recent developments by type of resource nationalism

Increases in royalties and taxes

Kenya, USA and Zambia

Mining reform

Argentina, Bolivia, Democratic Republic of Congo, Myanmar and Nigeria

Commodities impacted

Iron Ore: India

Coal: India

Gold and Silver: India

Zinc, Nickel, Bauxite and Copper: Indonesia

Argentina: Argentina's new president has removed the 5% mining export tax levied as part of his open market advocacy campaign.¹ The new Government is looking to work with governors to develop new mining projects, while prioritizing environmental protection. The move is expected to boost Argentina's production and exports, and counter inflation.

Bolivia: Bolivia's Deputy Minister for Mining Cooperatives, José Luis Chorolque, has said the Government is planning new legislation which will formalize mining contracts.² The legislation is looking to end ownerships disputes over mining concessions and reduce state expropriations. The current Government has previously responded to ownership disputes by expropriating assets. For example, Glencore had the Colquiri tin mine expropriated in 2012 after a dispute between mining cooperatives and salaried workers.

Democratic Republic of Congo: The Democratic Republic of Congo has decided to keep its existing mining code. The 2002 mining code will be retained after the mining industry opposed new laws that would have increased: profit tax, royalties and the government's share in new mining projects.³ The announcement comes as a relief to miners who warned the industry could collapse under the change.

India: In India, iron ore exporters in the state of Goa have approached the Government requesting the removal of the export duty on iron ore.⁴ There is currently a 10% duty on iron ore fines with iron content below 58%, and a 30% export duty on iron ore lumps and fines with an iron content above 58%. India's mines ministry has supported the idea, asking the finance ministry to scrap the 10% export duty on low-quality iron ore from Goa, saying the removal will boost sales in a low-price environment.⁵

In other news from India, the Chamber of Commerce has called for the removal of a 6% duty on coking coal, which includes a 2.5% import duty. These duties increase the cost of steelmaking in India, impacting the country's competitiveness. The body is also calling for the removal

of the clean energy cess of Rs200/t of coking coal as this should only be applicable to thermal coal.⁶

The Indian Government has already removed a 5% export duty on iron ore pellets to support the struggling iron ore and steel sector.⁷ Over half of India's pellet capacity is currently unused due to low demand and capacity utilization, and the removal of the duty will open up an export market.

In addition, India has increased its import tariffs for gold and silver in an effort to slow down imports. Gold is a traditional store of wealth for many Indians. Duties are now US\$388 per 10 grams of gold and US\$487 per kg of silver. India's gold imports more than doubled in December 2015 to US\$3.80 billion as prices fell.⁸

Indonesia: Indonesia is reviewing its export ban on partially processed metal ores, including zinc, nickel, bauxite and copper.⁹ In 2014, the country introduced a ban on raw metal ore exports to promote the building of smelters to create jobs and increase value addition. However, Indonesia has lost billions in revenue as many companies have shelved smelter projects with fall in prices. The ban has remained for nickel and bauxite producers, but concentrate exporters have been given until 2017 to continue exporting if they paid an export tax and developed domestic processing facilities. The country is set to review the ban and the breaches of the ban this year.

Kenya: The Kenyan Government is seeking to secure more earnings from the country's mineral resources, starting with a move to implement higher mining royalties. Negotiations are currently underway for a new structure.¹⁰ In 2013, a previous attempt was made to increase royalties and was met with resistance, likely due to lack of industry consultation.

Myanmar: In December, Myanmar signed in new amendments to its national Mining Law, to make the country more attractive for foreign investment. Previously, miners were required to surrender 30% of

¹ "Argentina revokes mining export tax," *SNL Metals & Mining*, 15 February 2016.

² "Proposed mining legislation reform likely to improve investor protection and reduce ad-hoc expropriations in Bolivia," *IHS Global Insight Daily Analysis*, 2 December 2015.

³ "DRC withdraws change to mining code," *SNL Mining*, 10 February 2016.

⁴ "Goa miners approach PMO on removing export duty on iron ore," *The Economic Times*, 7 January 2016.

⁵ "Mines ministry proposes scrapping export tax on iron ore from Goa," *Reuters News*, 2 February 2016.

⁶ "Remove duty on coking coal, auction ore to rescue industry: Indian Chamber of Commerce," *The Economic Times*, 10 February 2016.

⁷ "Government removes export duty on iron ore pellets," *The Economic Times*, 5 January 2016.

⁸ "India hikes import tariffs on gold and silver," *Mining.com*, 10 February 2016.

⁹ "Indonesia to review rules banning metal concentrate exports from 2017," *Reuters News*, 16 February 2016.

¹⁰ "Mining CS in talks with miners over new royalties," *The Star*, 22 December 2015.

production to the Government under production sharing laws. The new amendments propose the Government instead chooses to take equity in projects rather than production sharing.

Another key amendment is an extension to mining licenses, with large projects now having tenures of up to 50 years. Royalties will be between 2% and 5% and exploration permit sizes and license fees are also being reviewed to ensure they are internationally competitive. The Ministry of Mines now has 90 days to draft new mining regulations, including the revised Mining Law, both of which are expected to be released in April.¹¹

Namibia: Namibia is looking at new laws that would see a 20% stake in mines reserved for the black majority. The country is looking to have the laws in place by April 2017.¹² The draft laws have seen positive responses from existing miners in Namibia, including Areva, Vedanta and B2Gold. The draft empowerment bill, currently open for public comment, also provides for a minimum 5% of a mining company to be owned by Namibians. This bill also says the proposed structure of companies does not meet government objectives for empowerment, and amendments need to be proposed to meet poverty eradication and empowerment aims.

Nigeria: As part of an overhaul of its mining sector, Nigeria is reviewing all its mining licenses.¹³ The country is seeking to shift its dependence on oil to other commodities which include gold and iron ore.

USA: The US has increased its duties on aluminium extrusion imports from 38 companies qualifying for a special rate to 61.35%, up from as low as 9.67%.¹⁴ The countervailing duty rate for Chinese extruders which do not qualify for a special rate is 158.96%. This follows anti-dumping duties recently being imposed on several Chinese extruders.

Zambia: In 2016, Zambia's Chamber of Mines will be looking for a better solution for the country's lagging mining sector. The chamber said that the industry needs to push for a "long-term strategic" solution. It has said it wants to educate the Government and people on the

challenges of the industry in light of current commodity prices and support changes to make the industry more competitive.¹⁵ In particular, the Chamber of Mines has criticized the Government for its "constantly changing the policy and tax environment".

In other news from Zambia, it has approved a new royalty system that will vary the royalty depending on copper prices.¹⁶ The country seeks to keep struggling mines open and limit job losses, and the move follows requests by mining lobbies for a price-based royalty structure. Also approved is the suspension of a 10% export duty on ores and concentrates, for which there are no processing facilities; and the removal of a variable profit tax on income from mining operations. Under the new system, there will be a flat mineral royalty rate of 6% for precious metals and gems. For minerals and base metals other than copper, royalties will be fixed at 5%.

¹¹ "New mining laws provide an opportunity this Southeast Asian country," *Business Insider*, 5 January 2016.

¹² "Namibia aims to pass new mining empowerment laws by April 2017-minister," *Reuters News*, 11 February 2016.

¹³ "Nigeria to review mining licenses as part of industry overhaul," *Mining Weekly*, 21 December 2015.

¹⁴ "Commerce Dept raises import duties on some Chinese aluminium extrusions," *Reuters News*, 9 December 2015.

¹⁵ "Zambian mining sector pushes economic solutions," *Mining Journal*, 16 December 2016.

¹⁶ "Zambia approves price-based royalties for copper mines," *Reuters News*, 17 February 2016.

How EY's Global Mining & Metals Network can help your business

With a volatile outlook for mining and metals, the global mining and metals sector is focused on margin and productivity improvements while poised for value-based growth opportunities as they arise. The sector also faces the increased challenges of maintaining its social license to operate, balancing its talent requirements, effectively managing its capital projects and engaging with government around revenue expectations.

EY's Global Mining & Metals Network is where people and ideas come together to help mining and metals companies meet the issues of today and anticipate those of tomorrow by developing solutions to meet these challenges. It 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. Ultimately, it enables us to help you meet your goals and compete more effectively.

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EYG no. ERO298

BMC Agency
BACS 1002676

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