Tanzania: Mining Sector Woes **Anna Rabin**

Tanzania has long been heralded as a destination for long-term investors, providing them with political stability and a degree of sustained domestic security experienced by few of its neighbours. The country also has the strategic advantage of a large coastline and membership to the East African Community (EAC) and the Southern African Development Community (SADC). As the fourth largest gold producer in Africa and home to a range of minerals including, but not limited to, iron ore, cobalt and tanzanite, the country has long been viewed by mining companies as an attractive location for large-scale investment. That was however, up until the industry was placed firmly in the firing line of Tanzania's leader, President John Pombe Magufuli.

Although a long-time member of the Chama Cha Mapinduzi (CCM), the country's ruling party since independence, President Magufuli has taken an unprecedented stance against the mining sector, and assumed a worrying level of hostility against the private sector as a whole. His position threatens current investors and the sanctity of contracts, and risks undermining Tanzania's reputation as a desirable market for long-term investment.

In regards to the mining sector, the President initially announced forced listing requirements for Special Mining License Holders (to float 30% of their shareholding on the Dar es Salaam Stock Exchange) and a ban on the export of mineral concentrates. Both directives appeared to fit squarely within the administration's drive towards local content, specifically broad-based local ownership, and the growth of downstream processing to encourage the development of domestic industrialisation. Although hastily put together, these decisions were not entirely unforeseen by industry players. What followed, however, was a spectacular host of allegations against Acacia Mining (majority owned by Canadian firm Barrick Gold), and delivered in-part by two nationally televised press conferences where the government made serious allegations of unpaid taxes, underreporting of levels of gold concentrate and actions that, in the words of the President, amounted to "economic sabotage". As the curtains closed on the press conferences, Acacia's share price tumbled – with the company's value falling from USD$3.2bn to USD$730mn in a matter of months.

Riding on popular support, the President used the heightened popular distrust of the sector to rush through three pieces of legislation at the end of June 2017 that fundamentally, and retrospectively, alter the country's extractives sector – not limited to the mining sector. The period from announcement to passing indicates that the bills were written, debated, ratified and signed in just five days.

With a clear focus on regaining a higher degree of sovereignty over its natural resource sector, the legislation calls for the State to have a 16% free carried interest in all projects, allows it to purchase another 34%, prohibits the use of stabilisation clauses, and removes investors' recourse to international arbitration in the event of a dispute between country and company. The government has in effect granted itself the ability to re-negotiate existing Mineral Development Agreements (MDAs) that they deem to be "unconscionable" – a term that is bereft of a firm and fast definition to ensure that the county's natural resources are harnessed for the beneficiation of Tanzania and its citizens. The push towards local beneficiation also includes clauses on mandatory downstream processing (even in cases where it may not be economically beneficial to do so for the investor) and a requirement that all earnings be kept in local banks. With safeguards commonplace for investors looking to do business in the developing world being torn apart, the passing of the legislation saw multiple companies halt trading, delays in project timelines and divestments currently being considered.

Although there has long been a sense that confidentially negotiated MDAs largely signed under President Mkapa's tenure were too generous to the private sector, this raft of changes without proper industry consultation shook the confidence of current and prospective investors. Acacia – via majority shareholder Barrick – entered into negotiations with the government in order to resolve the concentrate ban, a record fine issued against it of USD$190bn, and its ability to operate under the new legislation. The negotiated settlement, led by Barrick, saw Acacia agree to increasing the role of the government in decision-making around its three mines, a 50/50 split of economic benefit between the two partners as well as a US$300mn goodwill pledge to be made by Acacia to the Tanzanian government. With negotiations led by Barrick, the announcement roughly coincided with multiple high-level resignations from Acacia's executive team.

With the President appearing to be erring towards the county's post-independence Socialist roots, and having surrounded himself with well-worn academics, predominately from the University of Dar es Salaam, many of whom have limited international experience, there is no sign that this approach to policy-making is likely to abate in the near future. With that comes the realisation for investors that they must alter their approach to government relations and fundamentally rethink their investment philosophy to fit within this 'new normal'. Deference to thought leaders and academics, a renewed focus on meaningful local content contributions, an understanding of the historical distrust of the sector, and a deep understanding of President Magufuli's executive powers under the constitution along with his leadership style will all need to be considered when assessing the once 'investor friendly' country's political risk profile.

While President Magufuli and his heavily-ladened team of academicians appear to be fighting big business with academic theories, what looks good on paper may not provide the country with the economic growth that it requires as it works to attain middle income status. The realisation that once large-scale infrastructure investors exit a jurisdiction they are not quick to return, may dawn on the government too late in the day. With this in mind, investors must seek to draw up both short and long-term investment strategies to position themselves for what is likely to be a two-term presidency.

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