

## Mining in Africa: below ground opportunities, above ground risk

Anna Rabin

---

With the activities of mining companies initially driven by what is underground, the political and regulatory risks associated with the happenings above ground, are changing the landscape, and in some cases projecting economics, for investment in sub-Saharan Africa. The continent has long paid dividends for intrepid miners, with all of the big players, along with scores of small to mid-cap miners traversing the continent looking for opportunities. From flagship investments such as AngloGold Ashanti's Mponeng to single asset companies trying their luck, Africa has and will continue to be, a leading geographical focus for the sector.

With knowledge of below ground risk in hand, mining companies have either invested heavily for in-house counsel or sought the opinions of external consultants around risk management, government engagement and critical issues such as compliance with the Foreign Corrupt Practices Act (FCPA) and UK Bribery Act. Although there have been some notable shortcomings in recent years, for example, Rio Tinto's bribery scandal in relation to the Simandou mine in Guinea, the appetite for investing in the continent has remained.

However, a wave of recent regulatory and royalty changes which emanated in Tanzania, appear to be changing project dynamics and testing miners' appetite to invest in what were traditionally viewed as key markets. Tanzania's 2017 domestic reforms, spearheaded by President Magufuli, included a raft of regulatory and royalty amendments, many of which are retroactive. Changes included partial listing requirements on the Dar es Salaam Stock Exchange for Special Mining License holders, a ban on the export of mineral concentrates, the granting of 16% free carried interest to the State, the prohibition of the use of stabilisation clauses, the removal of international arbitration clauses, and granting the government the right to re-negotiate existing Mineral Development Agreements. These changes coincided with a very public spat with Acacia over allegations of unpaid taxes, a dispute that saw an overhaul of Acacia's senior management, and remains unresolved more than one year on.

The fallout of the overhaul of Tanzania's mining code saw companies mull opportunities in neighbouring countries, including the DRC and Zambia, with some even looking further north to Kenya's nascent mining sector. However, rather than being a contained incident, Tanzania's decision to overhaul its mining sector appears to have led to a degree of contagion across the region.

The DRC soon followed Tanzania by drastically overhauling its mining regulations, in particular, altering royalties on most products from 2% to 3.5%, and the ability to leap to 10% for resources designated as 'strategic' to the country. Despite lobbying and protests by large miners including Randgold, Glencore, Ivanhoe and China Molybdenum Co., the DRC ploughed ahead, possibly buoyed by the actions of its neighbour and signed the changes into effect. Zambia, where the mining sector is already feeling a degree of uncertainty around President Lungu's remaining time in office, shocked the sector by issuing First Quantum with a tax bill of close to US\$8 billion for alleged unpaid import duties. Increased pressures to list on local stock markets have also been evident, with possible compulsory listings in Kenya, And raised although then removed in Zimbabwe, as the country tries to revive international interest in the country's mining sector in the post-Mugabe era. The trend across the region is one of increased local ownership, 'meaningful' local content and increased money into state coffers via boosted royalty regimes.

With the more popular markets fraught with increased regulatory uncertainty, frontier markets such as Angola and Sudan are catching the attention of the mining sector. Angola, where decades of civil war has seen the resources sector focus largely on offshore oil and gas

# Dragoman

opportunities to ensure minimal on-shore risk, is courting investment in its mining sector as it tries to diversify from oil dependence, with a focus on diamonds, iron ore, copper and phosphate. Sudan, presents as another complex market, where although opportunities below the surface may excite geologists, above-ground risk and uncertainty weighs heavily on investors, including those trying to envisage a possible post-Bashir Sudan, issues associated with the country's hyperinflation, the influx of artisanal miners and Sudan's continued presence on the US State Sponsors of Terrorism list, all raising red flags for companies.

However, the countries with more developed mining sectors are seemingly altering their expectations of investors, for those investors with the appetite to invest, frontier markets present some appealing opportunities. However, whether it be in Tanzania, once considered 'Africa lite' for investors, or the more intrepid destinations of Sudan and Ethiopia, there is a growing need to temper excitement around what is found below the ground, with the very real, and in some cases increasing, risks above the ground.



***Anna Rabin*** is a political risk and foreign policy expert, with a focus on Africa and the Middle East. Anna works to provide clients with bespoke political, commercial and strategic advice, including country entrance, exit, and monitoring strategies. She has a Master's Degree with Distinction in African Politics from the School of Oriental and African Studies, a Bachelor's Degree with First Class Honours in Political Science and International Studies from the University of Melbourne and a Graduate Certificate in Commerce.