

26<sup>th</sup> July 2021

## Compensation Claim of AU\$127m lodged against Tanzania

- Memorial submission lodged with ICSID outlining quantum of compensation claim and damages against the United Republic of Tanzania for the expropriation of the Ntaka Hill Nickel Project
- The Memorial provides the basis for compensation to the Claimants in the amount of AU\$127 million, including interest which continues to accrue
- Arbitral panel has confirmed the procedural timetable for arbitration – to conclude mid 2023
- All legal costs funded through US\$4.65m litigation funding facility

Indiana Resources Limited (ASX: IDA) ('Indiana' or the 'Company') provides the following update on arbitration with the United Republic of Tanzania over the expropriation of the Ntaka Hill Nickel Project ("the Project") and other breaches of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Republic of Tanzania for the Promotion and Protection of Investments ("UK-Tanzania BIT" or "BIT").

As the majority shareholder in Ntaka Nickel Holdings Ltd ("NNHL") and Nachingwea UK Ltd ("NUK") (both incorporated in the United Kingdom) Indiana is the manager of the Joint Venture Project and is responsible for all activities with regards to the arbitration.

The Company is pleased to advise that NUK, NNHL and its subsidiary Nachingwea Nickel Limited ("NNL") (the "Claimants") have now filed their Memorial, a submission setting out its claims with ICSID (The International Centre for Settlement of Investment Disputes), an organisation that is part of the World Bank Group. The Memorial contains the basis for compensation to the Claimants for AU\$127 million (US\$93.7million), that includes interest which continues to accrue.

The Claimants retained Mr Travis Taylor of Versant Partners, London, as its quantum expert to quantify the claim. LALIVE is representing the Claimants in the arbitration process. A litigation funding facility for US\$4,653,400 is in place with Litigation Capital Management Limited ("LCM"), a firm listed on the Alternative Investment Market ("AIM") of the London Stock Exchange. The arbitration case is heard by a 3-person tribunal and is expected to conclude in H1 2023.

### Company Comment

**Indiana's Executive Chairman Bronwyn Barnes said:** "Indiana continues to make positive progress in regard to arbitration with the Government of Tanzania. As the manager and major shareholder of the Ntaka Hill Nickel Project establishing AU\$127 million as compensation for Tanzania's expropriation of what was once our flagship project is a very important milestone.

*With litigation funding in place that secures all our legal costs associated with arbitration, Indiana is adequately resourced and well supported to deliver a positive outcome for our shareholders, and we look forward to reporting on further developments in due course."*

## **Next Steps**

The Arbitral Panel appointed by ICSID convened their first session in April 2021. Subsequent to this session, the procedural timetable for arbitration has been confirmed and is expected to conclude in mid 2023.

## **Background to Claim**

In July 2017, the Government of Tanzania amended the Mining Act 2010 by, *inter alia*, abolishing the legislative basis for the Retention Licence classification with no replacement classification.

On 10 January 2018, Tanzania published the Mining (Mineral Rights) Regulations 2018, which cancelled all Retention Licences issued prior to 10 January 2018 at which point they ceased to have any legal effect. The rights over all areas under Retention Licences, including the Retention Licence held for the Project, were immediately transferred to the Government of Tanzania.

During the time from January 2018 to December 2019, the Company actively engaged with the Tanzanian Minister for Minerals and the Mining Commission in an effort to resolve a suitable tenure mechanism for the Project Licence to be reinstated.

At all times Tanzanian Government representatives reassured the Claimants' representatives, as well as Indiana Board members that visited Tanzania for the purpose of collaborative engagement with the Government, that their historic investment would be recognised and that their rights would be respected and protected.

On 19 December 2019, the Mining Commission of Tanzania announced a public invitation to tender for the joint development of areas covered previously by Retention Licences. The invitation provided that the successful bidder should compensate the previous Retention Licence holder for its exploration costs incurred. This public invitation was not sent to the Company or the Claimants but was advertised on the website for the Ministry of Energy and Minerals.

On 20 December 2019, the Mining Commission of Tanzania announced a revised public invitation to tender, which removed the condition that the successful bidder compensate the previous retention licence holder for its exploration costs incurred.

Through the measures described above, Tanzania has removed the ownership of the Project from the Claimants, and in doing so has breached its obligations to the Claimants under the UK-Tanzania BIT and international law. These include, but are not limited to:

- a) Tanzania's obligation not to nationalise or expropriate the Claimants' investments or subject them to measures having effect equivalent to nationalisation or expropriation without prompt, adequate and effective compensation under Article 5(1) of the BIT; and
- b) Tanzania's obligation to accord fair and equitable treatment and full protection and security to the Claimants' investment and not to impair by unreasonable or discriminatory measures the maintenance, use, enjoyment or disposal of the Claimants' investment under Article 2(2) of the BIT.

Article 8(3) of the BIT provides that the Claimants may submit the dispute to ICSID if the Claimants and Tanzania are unable to reach an agreement concerning the dispute within six months of the dispute arising (in this instance from the date of the Claimants' notice of dispute being 14 January 2020).

The Claimants have engaged LALIVE, an international law firm, to act on their behalf. LALIVE has offices in Geneva, Zurich and London, and specialises in international arbitration. The firm has extensive experience in international investment arbitration concerning mining and other natural resources and is representing investors and States as counsel worldwide.

The Company has also secured a Litigation Funding Agreement (“LFA”) for **USD4,653,400** with LCM - a firm listed on the Alternative Investment Market (“AIM”) of the London Stock Exchange. The LFA will cover legal costs in bringing the Claim to Arbitration against the Government of Tanzania on a non-recourse basis, ensuring that costs relating to arbitration will not be borne by Indiana’s shareholders.

The ICSID Convention has been ratified by 155 States, including Tanzania. An award issued by an ICSID tribunal is enforceable in any one of those 155 member States as if it were a judgment of one of their own courts. Partly because of this, States have overwhelmingly and historically complied voluntarily with the payment terms of such awards.

### **Ends**

*This announcement is authorised for release to the market by the Chairman of Indiana Resources Limited with the authority from the Board of Directors.*

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### **Forward Looking Statements**

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