

AFRICA RISK CONSULTING

Guinea Monthly Briefing May 2017

Guinea Summary 16 May 2017

The United States (US) Court for the Southern District of New York convicts former Guinean mines minister Mahmoud Thiam on one count of transacting criminally derived property and one count of money laundering. Thiam faces a maximum 30-year prison sentence. Israeli billionaire Beny Steinmetz-owned BSG Resources Ltd (BSGR) files a lawsuit against US billionaire investor George Soros alleging he caused BSGR losses of at least \$10 billion. China state-owned Aluminium Corp of China Ltd (Chinalco) reportedly asks the government to acquire its 7.5% stake in Simfer S.A., current operator of the Simandou iron ore mine.

US court convicts Thiam of receiving and laundering \$8.5m in bribes

The **Manhattan United States (US) Court** for the **Southern District of New York** on 4 May convicted former **Guinean** mines minister **Mahmoud Thiam** on one count of transacting criminally derived property and one count of money laundering.¹ Thiam was mines minister under the **Moussa Dadis Camara** (2008-2009) military junta administration.² US government officials had arrested Thiam in early December 2016, on the basis of an investigation led by the **Federal Bureau of Investigation's (FBI)** complex frauds and cybercrime unit.³ The maximum sentence for both offences amounts to a 30-year prison sentence.⁴ Thiam, a US citizen, was open to prosecution under the **Foreign Corrupt Practices Act (FCPA)**. According to the court ruling,

*"[Thiam] abused his official government position to enrich himself at the expense of one of Africa's poorest countries. [He] laundered the proceeds of his bribery scheme into the US to fund his lavish lifestyle, buying a multi-million dollar estate in **Dutchess County (New York)**, and paying for private schools for his children."*⁵

Thiam received an \$8.5m bribe from **China-based China International Fund (CIF)**, linked to **Sam Pa's 88 Queensway Group**, after Thiam announced a \$7 billion infrastructure-for-resources deal with CIF in October 2009.⁶ The deal with CIF, according to the prosecution, gave the company "near total control of Guinea's valuable mining sector".⁷ Pa is the reported head of both CIF and 88 Queensway Group, and has been the subject of similar controversy in **Zimbabwe** and **Madagascar**, including allegations of bribery.⁸ CIF is a subsidiary of **Dayuan International Development**, which had entered into other joint venture operations across **West Africa**, including with state-owned **Société Nationale des Pétroles du Congo (SNPC)** in the **Republic of Congo** and state-owned oil and gas company **Sociedade Nacional de Combustíveis de Angola (Sonangol)** in **Angola**.⁹ CIF reportedly acted as a link between state-owned African companies and **Sinopec**.¹⁰ Thiam allegedly held the bribe in a **Hong Kong** bank account, whilst misreporting his position as mines minister in

¹ www.justice.gov

² Guinée News, 13 Dec 2016.

³ www.justice.gov

⁴ www.justice.gov

⁵ www.justice.gov

⁶ Financial Times, 11 Oct 2009.

⁷ www.justice.gov

⁸ www.uscc.gov

⁹ Le Figaro, 18 Oct 2009.

¹⁰ Le Figaro, 18 Oct 2009.

Guinea to Chinese banks.¹¹ Thiam had admitted to the court, during a cross-examination, that he lied to both US banks and the **Internal Revenue Service (IRS)** about both personal earnings of \$85,000 for work in Guinea and the \$8.5m bribe from Pa.¹² Thiam also lied to banks about his employment, describing himself as a private consultant, claiming that he did so because his bank accounts would otherwise be closed due to being a 'politically exposed person.'¹³ Thiam transferred the funds through bank accounts in the US to an unspecified **Malaysian** company in order to purchase a \$3.75m estate, acquire a concert piano and pay for private preparatory schools for his children and at least one other African former government official:

*"Thiam sold out his country and then used US banks and real estate to hide millions in bribes paid to him by a Chinese conglomerate. Corruption is a global disease that undermines the rule of law everywhere."*¹⁴

Before the ruling, Thiam claimed that the \$8.5m bribe from Pa was a loan that he took during a "desperate"¹⁵ personal situation, to pay business debts and feed his family in the US, while he worked in Guinea.¹⁶ Before court Thiam admitted that there was no written agreement, interest or repayment for the loan with Pa, and that he never repaid it.¹⁷ According to the prosecution, this evidence of a non-repayment of the loan was "a bribe plain and simple".¹⁸ Thiam also denied that the 'loan' was used to facilitate Pa's investment.¹⁹ Thiam's lawyer, **Aaron Goldsmith**, claimed that the prosecution had limited evidence:

*"[Thiam] got money from Pa... [Thiam] lied about his work. That's about all the evidence you've got in this case, related to those charges."*²⁰

Justice minister **Cheick Sako** welcomed the ruling in Guinea:

*"Guinea is extremely thankful for the US prosecutors for the minute work that they carried out to reveal Thiam's activities, work which was supported by Guinean authorities throughout the procedure... This case is of extreme importance for the Guinean people. Thiam held a post in our country that gave him power and authority. He used this position for personal gain, at the expense of the Guinean people."*²¹

Local analysts also applauded the prosecution,

*"[Thiam] is but one example. Our history is filled with such cases. The government's collaboration with the US prosecutors is not insignificant. Guinea still has a lot to do before it can clean its reputation as one of the most corrupt African countries."*²²

Despite the verdict, Thiam continues to maintain his innocence.²³ He will receive his final sentence on 11 August.²⁴ Thiam reportedly plans to file a motion before the final sentence to seek to overturn the ruling, on the grounds of insufficient evidence that the payments to him were in fact bribes.²⁵

¹¹ www.justice.gov

¹² Law 360, 2 May 2017.

¹³ Law 360, 2 May 2017.

¹⁴ www.justice.gov

¹⁵ Bloomberg, 4 May 2017.

¹⁶ Bloomberg, 4 May 2017.

¹⁷ Reuters, 2 May 2017.

¹⁸ Law 360, 2 May 2017.

¹⁹ Reuters, 2 May 2017.

²⁰ Reuters, 2 May 2017.

²¹ Guinée News, 5 May 2017.

²² Source, investigator, Conakry

²³ www.courthousenews.com

²⁴ www.justice.gov

²⁵ Financial Times, 4 May 2017.

The case against Thiam will serve as an example for former officials living outside of Guinea, in the US in particular. In Thiam's case, his US citizenship facilitated the indictment. The case is one of several international lawsuits (see below) that continue to negatively affect Guinea's reputation, especially stemming from the Dadis Camara government. Although the Guinean government's involvement in the prosecution appears to show an active stance against corruption, there remains scope for improvement in domestic legislation and anti-corruption authorities, to more aggressively lead indictments domestically.

... as Steinmetz sues Soros

Israeli billionaire **Beny Steinmetz**-owned **BSGR Resources Ltd (BSGR)** filed a lawsuit against US billionaire investor **George Soros** at the same US court in Manhattan²⁶ on 14 April.²⁷ BSGR is the former operator of the Guinean **Simandou** iron ore mine's two northern blocks – **Block 1** and **Block 2**.²⁸ The allegation states that Soros led to BSGR's loss of the Simandou mine (see below) and 'at least' \$10 billion through a defamation campaign.²⁹ Steinmetz has on several occasions said publically that Soros has intentionally conducted a defamation campaign against him, but never backed up the allegations with a lawsuit.³⁰ Steinmetz also said that this campaign is a part of Soros' alleged "*animus toward the state of Israel*".³¹ The complaint also stated that,

*"Soros's financial clout gave him power over Guinea's processes of government, which he then thoroughly abused... motivated solely by malice, as there was no economic interest he had in Guinea... George Soros epitomises in the 21st century what Lord Acton observed two centuries ago: power tends to corrupt; absolute power corrupts absolutely."*³²

BSGR adviser **Dag Cramer** told press sources that the lawsuit would seek to reverse reputational damage to BSGR,

*"We want to get the asset [Simandou] back and clear our name. We're going to develop it and form a partnership with the right people if needed."*³³

Michael Vachon, Soros' spokesperson, responded to the lawsuit,

*"The allegations in BSGR's lawsuit are frivolous and entirely false... The lawsuit is a desperate PR stunt meant to deflect attention from BSGR's mounting legal problems across multiple jurisdictions."*³⁴

Israeli authorities on 19 December had detained Steinmetz on suspicion of bribing Guinean officials and money laundering (see *ARC Briefing Guinea December 2016*). The Israeli police cited an investigation that US, Swiss, Guinean and Israeli law enforcement agencies carried out, within an **Organisation for Economic Co-operation and Development (OECD)** anti-bribery initiative.³⁵ Steinmetz claimed that his arrest in Israel was part of the Soros and Guinean government defamation campaign (see *ARC Briefing Guinea December 2016*). Furthermore, Steinmetz's negative reputation appears to be under increased scrutiny, amid alleged links between Steinmetz and **Jared Kushner**, current special adviser to US president **Donald Trump** (2017-present), even though Kushner claims that he never engaged in business practices with Steinmetz, dealing instead with his nephew **Raz Steinmetz**.³⁶ Steinmetz has on various occasions interchangeably blamed a mixture of Soros, the

²⁶ US District Court, Southern District of New York

²⁷ Bloomberg, 14 Apr 2017.

²⁸ Multiple sources: Bloomberg, 14 Apr 2017; Bloomberg, 19 Dec 2016.

²⁹ Bloomberg, 14 Apr 2017.

³⁰ Bloomberg, 14 Apr 2017.

³¹ Bloomberg, 14 Apr 2017.

³² Australian Financial Review, 17 Apr 2017.

³³ Daily Telegraph, 22 Apr 2017.

³⁴ Bloomberg, 18 Apr 2017.

³⁵ Bloomberg, 19 Dec 2016.

³⁶ New York Times, 26 Apr 2017.

Guinean government and Simandou's former operator, **United Kingdom (UK)-based Rio Tinto Plc**, for the defamation campaign. A local source believes that the current BSGR lawsuit is indicative of his desperation,

*"Guinea knows how Steinmetz acquired rights for Simandou. Now he wants them back. All you need to do is look at the number of legal cases against him and you know that this is desperate."*³⁷

Steinmetz's lawsuit against Soros appears to reflect the scale of descent in Steinmetz's reputation, especially following revelations of alleged bribery in order to obtain Simandou concession rights. Steinmetz will continue to seek to persuade judges of the defamation campaign waged against him, despite an unfavourable prognosis after his arrest in Israel.

... and Chinalco to become sole owner of Simandou

China state-owned **Aluminium Corp of China Ltd (Chinalco)**, on 15 May reportedly asked the Guinean government to acquire the government's stake in the Simandou mine operator, **Simfer S.A.**³⁸ Chinalco bought Rio Tinto's 46.6% stake in the Simfer joint-venture to for \$1.1 to 1.3 billion in October (see *ARC Briefing Guinea October 2016*).³⁹ Chinalco currently holds a 92.5% stake, while the government retains the remaining 7.5%.⁴⁰ The Simandou project, when fully operational, will reportedly double Guinea's national gross domestic product (GDP).⁴¹ Chinalco claims that the request to acquire the government's interest in Simfer is part of a global Chinese policy to secure strategic resources for the coming decades.⁴² Chinalco's attempt at total control of the mine may be an indication of fears surrounding possible nationalisation of the mine.⁴³ Chinalco reportedly said that it would like more favourable terms than those currently provided in Guinea's mining code.⁴⁴ Mines minister **Abdoulaye Magassouba** said that the government would negotiate with Chinalco:

*"Everyone wants it all... Of course, they are free to express interest, but in the end we will make the decision on the basis of commercial negotiations."*⁴⁵

According to a local source, Guinea's preferred outcome is for a quick launch of the mine:

*"I was optimistic when Rio Tinto left Simfer that Chinalco would accelerate progress. Now the Chinese want to renegotiate – it looks like this mine is cursed!"*⁴⁶

It remains unclear why Chinalco may want to increase its share in Simfer, even though it retains a significant controlling stake in the joint venture. The government will rescind its share in the mine only if it sees a mutual benefit in an indirect influence on the mine's operation. Chinalco's negotiating power is significant, however, as the government is entirely dependent on Chinalco's initiative to launch the mine.

Background to the Simandou affair

Rio Tinto first obtained concessionary rights to the Simandou mine in 1997.⁴⁷ Rio Tinto owned the entire Simandou concession until 2008, when the government of the rapidly ailing president, **Lansana Conté (1984-2008)**, reportedly retracted Rio Tinto's share in Blocks 1 and 2 (**Simandou North**), and assigned them to BSGR.⁴⁸ BSGR had developed close ties to the Conté clan and had

³⁷ Source, journalist, Conakry

³⁸ Reuters, 15 May 2017.

³⁹ GuinéeTime, 1 Nov 2016.

⁴⁰ GuinéeTime, 1 Nov 2016.

⁴¹ Reuters, 28 Nov 2016.

⁴² Reuters, 15 May 2017.

⁴³ Reuters, 15 May 2017.

⁴⁴ Reuters, 15 May 2017.

⁴⁵ Reuters, 15 May 2017.

⁴⁶ Source, analyst, Conakry

⁴⁷ The Economist, 6 Dec 2014.

⁴⁸ Economist, 6 Dec 2014.

reportedly charged **Ibrahim Touré** with the firm's external affairs in Guinea. Touré's sister, **Mamadie Touré Conté**, was president Conté's fourth wife.⁴⁹

Rio Tinto retained blocks 3 and 4 (**Simandou South**) but entered a dispute with the government for Blocks 1 and 2. After Conté's death, BSGR sold 51% of its interest to **Brazil-based Vale S.A** for \$2.5 billion, though only received \$500m of this as BSGR missed development milestones.⁵⁰ In 2010, the new, democratically elected government of Alpha Condé set up a committee to review the approval of past mining contracts. The committee in 2011 concluded that BSGR had obtained Blocks 1 and 2 through bribery and returned them to Rio Tinto.⁵¹

In March 2014, following a US FBI investigation, a **French** national, **Frederic Cilins**, who used to lobby for BSGR, pleaded guilty in a federal court in New York to obstructing a US investigation into a US authorities' bribery and money-laundering investigation.⁵² Cilins served two years in prison, having pled guilty to attempting to bribe a witness to destroy evidence. Cilins was heard in recorded phone calls and meetings agreeing to bribe the same Mamadie Touré, so she would give him documents to be destroyed. Earlier, US authorities raided Touré's **Florida** (US) home and seized property worth over \$1m, alleging that BSGR had paid her a \$5.3m bribe to help the group win the Simandou North concession.

Rio Tinto in April 2014 filed a case in terms of the US **Racketeer Influenced and Corrupt Organizations Act (RICO)** against Vale and BSGR for alleged fraudulent conspiracy and corruption.⁵³ In it Rio Tinto accused Vale and BSGR of colluding and conspiring with Dadis Camara's military junta and its officials, notably including Thiam, in order to take control of Rio Tinto's concessions (see *ARC Briefing Guinea November 2015*).⁵⁴ Rio Tinto in the same case accused BSGR of paying a \$200m bribe to Thiam. In November 2015, the court found that Rio Tinto's claim was time-barred in terms of the statute of limitations.⁵⁵

Simandou chronology

- 28 Jul 2008 **Conakry Guinée News**. Decree, referenced D/2008/041/PRG/SGG rescinds **Rio Tinto** concession at **Simandou**;
- 29 Jul 2008 **Conakry Reuters**. Mines minister **Ahmed Kante** comments positively saying Rio Tinto's Simandou project is on track;
- 30 Jul 2008 **Conakry Guinée News**. Secretary in the presidency, **Sam Mamady Soumah** pens a letter to Rio Tinto confirming the government's apparent decision to rescind the Simandou concession;
- 3 Aug 2008 **Press Release**. A **Transparency International** official states that Guinea would "miss out" by cancelling Rio Tinto concession's at Simandou;
- 4 Aug 2008 **Press Release**. Rio Tinto reports it has received letter from president **Lansana Conte** "purporting to rescind the Simandou mining concession";
- 5 Aug 2008 **AFR**. Rio Tinto chief executive **Sam Walsh** states "we will continue with our exploration", comments on recent presidential decrees "if you can explain that, then good luck";
- 6 Aug 2008 **Conakry Africa Guinée**. Rio Tinto said it would meet president Lansana Conte to confirm the authenticity of the letter purporting to rescind Simandou rights;

⁴⁹ Africa Mining Intelligence, 7 Jan 2009.

⁵⁰ Multiple sources: Bloomberg, 18 Nov 2016; www.mining.com

⁵¹ Economist, 6 Dec 2015.

⁵² WSJ, 10 Mar 2014.

⁵³ Globe & Mail, 23 Nov 2015.

⁵⁴ www.panamapapers.icij.org

⁵⁵ www.nysd.uscourts.gov

- 11 Aug 2008 Conakry *RFI*. Press reports on the arrival of Rio Tinto executives with Simandou partner **International Finance Corporation (IFC)** to negotiate the Simandou issue as speculation mounts of a rival **Chinese** offer of investment;
- 27 Aug 2008 Conakry *Guinée News*. President Lansana Conté appoints **Loucény Nabé** mines minister;
- 6 Sept 2008 **Beyla** *RFI*. Demonstrators in Beyla protesting at Rio Tinto's recruitment policies burn three all-terrain vehicles belonging to the company;
- 9 Sept 2008 **Wawa** *Guinée News*. President Lansana Conté reportedly fails to receive **World Bank** deputy president **Obiageli Ezekwesili** due to ill health;
- 23 Sept 2008 *Guinée News*. Rio Tinto press release states "firm intent of the government of Guinea and Rio Tinto" to "move forward" with Simandou project;
- 25 Sept 2008 *RFI*. Prime minister **Ahmed Tidiane Souare** says "we are a little angry with Rio Tinto lately. We feel the company has not respected all the engagements";
- 21 Oct 2008 Conakry *RFI*. **Mamadou Saliou Camara** of the Guinean-**Italian** fund to alleviate Guinea's foreign debt accuses Rio Tinto of wrongly taking credit for Beyla radio station, to which it only contributed 10% of costs;
- 22 Oct 2008 Conakry *Guinée News*. During a press conference, Rio Tinto pledges \$5m, 10 buses, and five rubbish trucks to Guinea, for delivery by end-of-year;
- 17 Nov 2008 Conakry *Observateur*. Local newspaper accuses Rio Tinto of 'disregard' for mining code, misrepresentation of reserves at Simandou;
- 9 Dec 2008 Conakry *AFP*. **Beny Steinmetz Group Resources's (BSGR)** application for Simandou blocks 1 and 2 is successful and mines minister Loucény Nabé signs the permit;
- 10 Dec 2008 Conakry *AFP*. Rio Tinto announces it will "defer" its investments in Guinea due to global economic slowdown and "uncertainty" over government stance on Simandou concession;
- 16 Dec 2008 Conakry *RFI*. Government spokesman **Tibou Camara** speaks on national television to dispel rumours of president Lansana Conté's death;
- 16 Dec 2008 Conakry *Reuters*. BSGR announces exploration work to commence at Simandou blocks 1 and 2 during January 2009 and allocates \$35m to the exploration work;
- 17 Dec 2008 Conakry *Guinée News*. BSGR defends against media reports on Steinmetz's questionable reputation at a press conference;
- 17 Dec 2008 Conakry *Press release*. Government announces mandatory transfer of half of the Simandou concession from Rio Tinto to BSGR;
- 19 Dec 2008 **(Guinea)** *AFP*. The press reports rumours of president Lansana Conte's death;
- 19 Dec 2008 Conakry (Guinea) *Guinée News*. **Rio Tinto Alcan** pledges \$300,000 to community development in **Boke** region in partnership with the **Agence Française de Développement**;
- 22 Dec 2008 Conakry *Le Monde*. President Lansana Conté's death is announced officially;
- 23 Dec 2008 *Guinée News*. Coup leaders appoint members of new governing "council": six civilians and 26 military, including one general and nine colonels
- 23 Dec 2008 Conakry *Africa Guinée*. Captain **Moussa Dadis Camara** leads coup d'etat: military contingent take over national broadcaster, Moussa Camara announces suspension of constitution, political, trade union activity, government and parliament;

- 23 Dec 2008 Conakry *RFI*. Cabinet, military chief, MPs gather at houses of parliament to discuss succession to president Lansana Conté;
- 25 Dec 2008 *RFI*. President **Nicolas Sarkozy** calls for free, transparent elections to be held soon and the **United States** condemns the coup, "rejecting" junta promise for elections by December 2010;
- 28 Dec 2008 *Bloomberg*. Rio Tinto reiterates its claim over the full Simandou concession, says "high priority" to meet junta leaders;
- 15 Jan 2009 Conakry *APA*. Captain Moussa Dadis Camara junta government appoints cabinet, including **Mahmoud Thiam** as mines minister;
- 28 Mar 2009 *L'Aurore*. Rio Tinto prefers the transliberian railroad option to the transguinean one to give easier access to the Simandou mine;
- 30 Mar 2009 *L'Aurore*. The election of **Semafo** director general **Mamadou Diallo** as president of the chamber of mines is controversial;
- 30 Mar 2009 *BBC*. Moussa Dadis Camara publicly accuses former mines minister **Ahmed Kante** of the embezzlement and mismanagement of mining funds;
- 20 Apr 2009 Conakry *Guinée News*. Rio Tinto offers Conakry ten buses and five trucks to commemorate the 50th anniversary of Guinea's independence;
- 27 Apr 2009 (Guinea) *Reuters*. China reveals it was offered a huge African iron ore field seized from Rio Tinto by former president Lansana Conte, but declined out of "sensitivity" to international repercussions;
- 20 May 2009 **Kerouane Africa Guinée**. Hundreds of young people from Kerouane sit in before the front doors of BSGR, asking the company to recruit them;
- 9 Jun 2009 *Reuters*. According to Chinese authorities, the fact that Rio Tinto unilaterally abandoned the agreement with **Chinalco** has consequences for the Chinese industries and people;
- 15 Jun 2009 *Guinée News*. **Transparency International** ranking index rates Guinea as the eighth most corrupt country;
- 16 Jun 2009 *AFP*. **France** calls for the junta to respect the electoral calendar before the end of the year;
- 17 Jun 2009 Conakry *Africa Mining Intelligence*. The chairman and chief executive of **Simfer SA**/Rio Tinto attempts mediation with president Moussa Dadis Camara before he leaves his job at the end of June;
- 21 Jun 2009 *Guinée News*. **China International Fund Ltd** (CIF) signs a \$7 billion oil, mining, infrastructure deal with the Moussa Dadis Camara junta;
- 28 Sept 2009 Conakry *Guinée News*. Soldiers loot opposition leaders **Cellou Dallein Diallo** and **Sidya Toure**'s properties;
- 28 Sept 2009 (Guinea) *RFI*. The **African Union (AU)**, **Economic Community of West African States (ECOWAS)**, France, United States, **United Nations** and **United Kingdom** condemn military junta killings, urge restraint, deplore use of force, threaten sanctions and urge release of political prisoners;
- 28 Sept 2009 Conakry *AFP*. Military junta troops open fire in a crowded stadium, killing 157 civilian opposition demonstrators, provoking immediate international outcry;
- 29 Sept 2009 **Paris** (France) *AFP*. France suspends military cooperation with Guinea;

- 1 Oct 2009 Conakry *AFP*. **Mouctar Diallo**-led opposition party **Nouvelles Forces Démocratiques** rejects captain Moussa Dadis Camara's offer of a national unity government;
- 1 Oct 2009 Conakry *Le Monde*. Captain Moussa Dadis Camara claims opposition forces are responsible for 28 September massacres;
- 15 Oct 2009 **Washington (US)** *Le Monde*. The US government asks junta leader Moussa Dadis Camara to quit power;
- 16 Oct 2009 **Dakar (Senegal)** *AFP*. The **International Crisis Group** warns of civil war if the military government stays in power;
- 17 Oct 2009 **Abuja (Nigeria)** *Premium Times*. ECOWAS imposes arm embargo;
- 18 Oct 2009 Conakry *Press Release*. The AU asks captain Moussa Dadis Camara to confirm in writing that he will not run in 2010 elections;

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