

AFRICA RISK CONSULTING

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The Johannesburg High Court in South Africa orders the Zambian government to stop its attempted sale of Konkola Copper Mines (KCM), a subsidiary of United Kingdom-based Vedanta Resources, until arbitration is completed regarding the government's takeover of KCM. President Edgar Lungu (2015-present) fires finance minister Margaret Mwanakatwe and appoints Bank of Zambia (central bank) deputy governor Bwalya Ng'andu, as new finance minister. The Zambezi River Authority's (ZRA) council of ministers awards a tender to construct a \$4 billion, 2,400 megawatt (MW) hydroelectric power plant to United States-based General Electric and China-based Power Construction Corporation of China under a build, operate and transfer funding model.

South African court orders Zambia to stop liquidating Konkola Copper Mine

The **Johannesburg High Court** in **South Africa** ordered the **Zambian** government on 23 July to stop its attempted sale of **Konkola Copper Mines (KCM)**, a subsidiary of **United Kingdom (UK)**-based **Vedanta Resources**, until arbitration is completed regarding the government's takeover of KCM.¹ Vedanta sought an urgent court order in South Africa on 4 July to stop Zambia's state-owned mining investment firm, **ZCCM-IH**, from liquidating KCM.² The KCM shareholders' agreement makes provision for arbitration in South Africa in case of disputes.³ Vedanta owns 80% of KCM while ZCCM-IH owns 20% of KCM.⁴ The Zambian government, through ZCCM-IH, has attempted to liquidate KCM since May 2019, appointing a liquidator to run the company after accusing KCM of breaching the terms of its licence (see *ARC Briefing Zambia May 2019*). Despite the ruling, there is no guarantee the government will stop the liquidation, though the delay may give the government more room to negotiate and score political points.

The high court ruled that the KCM shareholders' agreement makes South Africa the correct jurisdiction to hear the dispute and that the shareholders' agreement prevents ZCCM-IH from liquidating KCM.⁵ The ruling also discharges the Zambian high court-appointed liquidator, **Milingo Lungu**.⁶ The Zambian high court lifted an order on 28 June that blocked the liquidator from disposing of assets until after 4 July, which prompted Vedanta to seek a ruling in South Africa.⁷

There has been no indication yet that the Zambian high court will follow the Johannesburg High Court's ruling. Mines minister **Richard Musukwa** said on 23 July that it would appeal the judgement. Musukwa noted that foreign judgements are only enforceable in Zambia once registered with local courts, and

"...to that effect, [the ruling] has no effect on the processes that are going on in Zambia."⁸

¹ Reuters, 23 Jul 2019

² Reuters, 4 Jul 2019

³ Lusaka Times, 4 Jul 2019

⁴ ISS Africa, 27 Jun 2019

⁵ MiningMX, 23 Jul 2019

⁶ MiningMX, 23 Jul 2019

⁷ MiningMX, 30 Jun 2019

⁸ Reuters, 23 Jul 2019

The Zambian government will continue its legal action regarding liquidation in Zambia, where the government will be able to influence the Zambian high court's ruling, in order to either liquidate KCM and sell its assets or force a concessionary payment from Vedanta. According to a UK-based lawyer,

*"ZCCM-IH can ignore this ruling, but this could result in a breach of the court decision or contempt of court unless it was appealed. This will inevitably have consequences for ZCCM-IH once the arbitration itself commences in Johannesburg."*⁹

The dispute began after President **Edgar Lungu's** (2015-present) ruling **Patriotic Front (PF)** party lost a by-election in **Konkola** region in April, prompting Lungu to visit in June and blame foreign companies for the high unemployment and poor service delivery in the area.¹⁰ Blaming international mining companies will increase Lungu's popularity in the **Copper Belt**, though the short-term support will be negated by the long-term effects if Vedanta is to leave Zambia. There is a strong possibility that the new owners would be **Chinese**, who are unpopular in Zambia for the same reasons as Vedanta – a general feeling that foreign companies take advantage of local labour and that Zambia does not benefit from these companies.

Musukwa said on 17 July that he expects nine companies from **Russia, Turkey, Australia, Canada** and China to make bids for KCM, despite the ongoing litigation.¹¹ However, with an increased risk of resource nationalism in Zambia, it is likely many risk-averse Western firms will hold back, while Chinese and Russian firms are more likely to remain in the bidding process. Other firms operating in Zambia may scale back operations or decide to pull out if KCM is nationalised, further harming the important mining sector. The seizure of KCM has already scared investors, with yields on Zambia's Eurobonds due in September 2022 surging to a record 22.1% at the end of May.¹² In an attempt to assuage the fears of investors, Musukwa described the dispute with Vedanta as *"an isolated case"* that should not be used to damage Zambia's image.¹³

Lungu fires finance minister Margaret Mwanakatwe and appoints Bwalya Ng'andu

President Lungu fired finance minister **Margaret Mwanakatwe** on 14 July and appointed **Bank of Zambia** (central bank) deputy governor **Bwalya Ng'andu** as new finance minister. Lungu did not give reasons for Mwanakatwe's dismissal, but under Mwanakatwe, who was appointed in 2018, external debt rose to \$10.05 billion at the end of 2018, up from \$8.74 billion at the end of 2017.¹⁴

Ng'andu should be an efficient finance minister to relieve Zambia's debt stress and turn its economy around. He previously served as managing director of the **Development Bank of Zambia** and the director-general of the **Zambia Investment Centre**.¹⁵ Ng'andu holds a PhD in applied psychology from UK-based **Crawfield University**.¹⁶ Aware that there is no time to delay in fixing the economy,¹⁷ Ng'andu said,

*"The current change is that we have agreed on measures over the last few years but we need to step-up on our action."*¹⁸

Ng'andu said he will focus on effective expenditure control, debt management and enhanced domestic resource mobilisation.¹⁹ He also affirmed targets of \$500m in savings by cancelling and suspending some projects and reducing the deficit to 6.5% of gross domestic product (GDP), down from the current 7.5%.²⁰ Ng'andu also wants to restart talks with the **International Monetary Fund** about a

⁹ Reuters, 23 Jul 2019

¹⁰ MiningMX, 23 Jul 2019

¹¹ Reuters, 17 Jul 2019

¹² Business Standard, 23 Jul 2019.

¹³ Business Standard, 23 Jul 2019.

¹⁴ EWN, 15 Jul 2019

¹⁵ EWN, 15 Jul 2019

¹⁶ Fin24, 15 Jul 2019

¹⁷ Zambia Reports, 24 Jul 2019

¹⁸ IOL, 17 Jul 2019

¹⁹ IOL, 17 Jul 2019

²⁰ Reuters, 17 Jul 2019

bailout loan²¹ and will pursue policies to this end. His first measure as finance minister has been to review plans to replace the value-added tax (VAT) with a non-refundable sales tax, the implementation of which Mwanakatwe delayed from 1 July to 1 September to allow further review on the new law.²² Mining companies have complained about the tax and Ng'andu's intention to give a clearer position has been widely welcomed.²³ The 9% sales tax was scheduled to come into effect in April and was meant to re-balance Zambia's economy, but has been delayed due to concerns that it would affect employment.²⁴

Ng'andu's appointment is a positive development for Zambia's economy, though much work remains. If he is given the space to make effective economic policies, even if they cause short-term political pain, he will be able to steer the economy in the right direction. However, if Lungu micromanages him, Ng'andu will be unable to make the necessary changes and Zambia's economy will continue to underperform, accrue debt, and eventually sink.

US and Chinese companies win tender for 2,400MW hydroelectric dam

The **Zambezi River Authority's (ZRA)** council of ministers awarded a tender on 14 July to construct a \$4 billion, 2,400 megawatt (MW) hydroelectric power plant to **United States-based General Electric** and China-based **Power Construction Corporation of China** under a build, operate and transfer funding model.²⁵ Zambia is in dire need of a stable electricity supply and, if all goes to plan, this plant could be the power boost it needs. The ZRA is jointly owned by **Zimbabwe** and Zambia, and operates to develop the **Zambezi River**.²⁶ The **Batoka Gorge** power plant, which will be located on the Zambezi River, will supply power to both Zambia and Zimbabwe.²⁷ The current proposal suggests two 1,200MW power plants, one on each side of the border in Zambia and Zimbabwe.²⁸ Construction is scheduled to begin in the last quarter of 2020²⁹ and will be completed between 2030 and 2033.³⁰

There are risks that future droughts could affect the ability to produce electricity at the power plant, particularly as **Kariba** hydropower dam, which is fed by the Zambezi River, is producing less than half of its intended electricity.³¹ Additionally, the Zambezi River's water flows are at their lowest in 50 years and worse than during the 2014-2015 drought.³² For the government, the build-operate-transfer financing model means that there is no fiscal strain and no sovereign guarantees are needed.³³ This is positive for both governments, as Zambia is struggling with massive debt problems and Zimbabwe is battling to contain inflation under its new currency.

²¹ Zambia Watchdog, 16 Jul 2019

²² Reuters, 28 Jun 2019

²³ Reuters, 17 Jul 2019

²⁴ Reuters, 17 Jul 2019

²⁵ Construction Review, 23 Jul 2019

²⁶ Afrik21, 25 Jun 2019

²⁷ Construction Review, 26 Jun 2019

²⁸ Lusaka Times, 3 Jul 2019

²⁹ Construction Review, 5 Jul 2019

³⁰ Afrik21, 25 Jun 2019

³¹ Construction Review, 26 Jun 2019

³² Construction Review, 26 Jun 2019

³³ Construction Review, 5 Jul 2019

Planner

21 Aug 2019 **Lusaka (Zambia) Bank of Zambia** (central bank) Monetary Policy Committee media briefing;

24 Oct 2019 **(Zambia)** Independence Day;

20 Nov 2019 **Lusaka (Zambia) Bank of Zambia** (central bank) Monetary Policy Committee media briefing;

2020 **(Zambia)** Construction scheduled to begin on **Batoka Gorge Power Plant**;

2021 **(Zambia)** Scheduled presidential elections;

Chronology

23 Jul 2019 **Lusaka (Zambia) Reuters**. The **Johannesburg High Court** in **South Africa** orders the **Zambian** government to stop the sale of **Konkola Copper Mines**, a subsidiary of **United Kingdom**-based **Vedanta Resources**, until arbitration is completed;

20 Jul 2019 **Lusaka (Zambia) Daily Nation**. Anti-graft activists **Laura Miti** and **Pilato** organise protests against corruption in President **Edgar Lungu**'s government;

18 Jul 2019 **Lusaka (Zambia) Reuters**. The ministry of mines says that copper production decreased 4% to 393,419 tonnes in the first six months of 2019;

17 Jul 2019 **Lusaka (Zambia) Lusaka Times**. Finance minister **Bwalya Ng'andu** says that external and domestic debt stood at \$10.23 billion at the end of June, up from \$10.18 billion at the end of March;

16 Jul 2019 **Lusaka (Zambia) Lusaka Times**. Mines minister **Richard Musukwa** says that nine companies will submit bids within weeks for **Konkola Copper Mines**, which the government took over from **United Kingdom**-based **Vedanta Resources**;

15 Jul 2019 **Lusaka (Zambia) Lusaka Times**. Finance minister **Bwalya Ng'andu** says he may further delay a 9% sales tax, which is due to be implemented in September;

15 Jul 2019 **Lusaka (Zambia) Lusaka Times**. President **Edgar Lungu** fires finance minister **Margaret Mwanakatwe** and appoints **Bwalya Ng'andu**, the **Bank of Zambia** (central bank) deputy governor, to replace her;

14 Jul 2019 **Lusaka (Zambia) Fin24**. **United States**-based **General Electric** and **China**-based **Power Construction Corporation** officially win a contract to construct the 2,400 megawatt **Batoka Gorge** hydroelectric power station;

4 Jul 2019 **Johannesburg (South Africa) Mining MX**. **United Kingdom**-based **Vedanta Resources** attempts to move its legal battle with the **Zambian** government to **South African** courts;

2 Jul 2019 **Lusaka (Zambia) Business Standard**. **Zambia** and **Zimbabwe** announce that construction of the \$4 billion **Batoka Gorge Dam** across the **Zambezi River** will start by the end of next year;

28 Jun 2019 **Lusaka (Zambia) Lusaka Times**. The high court lifts an order that blocked the liquidation of **Konkola Copper Mines**, a subsidiary of **United Kingdom**-based **Vedanta Resources**;

28 Jun 2019 **Lusaka (Zambia) Reuters**. Finance minister **Margaret Mwanakatwe** delays the implementation of a new sales tax to 1 September to allow further consultations with business leaders;

25 Jun 2019 **Lusaka (Zambia)** *Lusaka Times*. **China's** foreign minister, **Wang Yi**, writes off more than \$22m in **Zambian** debt to help reduce the debt burden.

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