

AFRICA RISK CONSULTING

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Tanzania Summary 14 August 2023

The World Bank tribunal, the International Centre for Settlement of Investment Disputes (ICSID), rules on 14 July that the Tanzanian government needs to pay Australian mining firm Indiana Resources and other claimants \$109.5m for breaching the United Kingdom-Tanzania Bilateral Investment Treaty in 2018 by expropriating a nickel mine project. The government files an appeal with the ICSID on 28 July, seeking to have the ruling annulled. United States-headquartered non-governmental organisation Human Rights Watch (HRW) publishes a report on 7 August denouncing the arrest and detention of, or threats of death against, at least 22 people who have criticised the port management agreement between the government and United Arab Emirates (UAE)-based multinational logistics company DP World. The Bank of Tanzania (BoT) (central bank) publishes its Financial Stability Report December 2022 on 7 August, highlighting Tanzania's steady economic growth and economic resilience.

Tanzania appeals ICSID ruling

The **World Bank** tribunal, the **International Centre for Settlement of Investment Disputes (ICSID)**, ruled on 14 July that the **Tanzanian** government must pay **Australian** mining firm **Indiana Resources** and other claimants \$109.5m for breaching the **United Kingdom-Tanzania Bilateral Investment Treaty** in 2018 by expropriating a nickel mine project. The other claimants include **United Kingdom (UK)**-registered **Ntaka Nickel Holding, Nachingwea UK** and locally registered **Nachingwea Nickel**.¹ The government filed an appeal with the ICSID on 28 July, seeking to have the ruling annulled.²

The government, in April 2015, awarded a five-year retention licence to Indiana Resources for the **Ntaka Hill** nickel project, which covered the same area as the Ntaka Hill prospecting licence.³ However, in July 2017, the administration of former president **John Magufuli** (2015-2021) amended the **Mining Act 2010**, abolishing the legislation that covered the retention licence classification without replacing it with other legislation. In January 2018, the government published the **Mining (Mineral Rights) Regulations 2018**, which outlined that retention licences no longer existed and that any areas under retention licences would revert to the government, meaning that the Ntaka Hill licence was revoked.⁴

Nicomedes Kajungu, former general secretary of the **National Union of Mine and Energy Workers of Tanzania**, said at the time that the government removed retention licences as it was seeing an increase in mining firms holding land for exploration and collection of mineral data, but failing to develop the land. The mineral data could be sold to other companies, at a high cost, with the government earning nothing.⁵

Between 2018 and December 2019, Indiana Resources and the minerals ministry were in negotiations over a resolution that would allow the project licence to be reinstated. However, by January 2020, no resolution had been reached and Indiana Resources confirmed it would be seeking

¹ Mining.com, 18 Jul 2023

² Mining.com, 18 Jul 2023

³ Mining.com, 18 Jul 2023

⁴ Mining.com, 18 Jul 2023

⁵ The Citizen, 30 Jul 2023

legal action.⁶ The case was officially filed in July 2021. The case reached a contentious point when the mining company visited the Ntaka Hill site in October 2022 during negotiation meetings with the government and found that a third party had developed the site and extracted a substantial amount of the previously identified nickel.⁷ Indiana Resources warned on 11 April that it would, if necessary, resort to seizing **Air Tanzania Company Limited (ATCL)** aircraft if the compensation was not paid (see *ARC Briefing Tanzania May 2023*).

The various, and often unexpected, changes that took place under Magufuli were a key reason for many companies choosing not to invest in Tanzania. While President **Samia Suluhu Hassan** (2021-present) has worked to change this sentiment, such cases illustrate lingering effects of Magufuli's term that may impact investor confidence. The case has come at a time when Tanzania's mining sector is seeing increased attention from international partners. It is in the government's interest to resolve Magufuli's mining policy legacy quickly and quietly while improving the domestic economic situation.⁸

The ICSID case has seemingly encouraged other companies to pursue the same actions. It was confirmed on 27 July that UK-based real estate investor **Pennyroyal Ltd**, developers of the **Blue Amber Resort** in **Zanzibar**, filed a claim with the ICSID alleging that the government had breached a bilateral investment treaty held between Tanzania, the UK and **Mauritius**.⁹ The case stems from a land ministry decision in January 2022 to terminate a land lease held by Pennyroyal for the land where it was developing Blue Amber Resort. According to reports, at least \$55m had been invested by this time, with delivery of the first phase units set for December 2022.¹⁰ The **Zanzibar Investment Promotion Authority (ZIPA)** sent a letter to Pennyroyal on 25 July saying it would not renew its construction permit following the land lease termination. This is the second claim linked to the bilateral investment treaties and may indicate that these treaties need to be re-evaluated.

Human Rights Watch denounces government's handling of criticism

United States (US)-headquartered non-governmental organisation **Human Rights Watch (HRW)** published a report on 7 August denouncing the arrest and detention of, or threats of death against, at least 22 people who have criticised the port management agreement between the government and **United Arab Emirates (UAE)**-headquartered multinational logistics company **DP World**.¹¹ Following the government's authorisation of Public Private Partnerships (PPP) on 23 May, it was announced on 5 June that the government had found a suitable partner for the development of the **Port of Dar es Salaam** (see *ARC Briefing Tanzania Jun 2023*). The **National Assembly** on 10 June approved the upscaling of the Intergovernmental Agreement (IGA) between Tanzania and the UAE, which would allow for DP World to assume management and operation of berths 5 and 7 of the Port of Dar es Salaam in conjunction with the **Tanzania Port Authority (TPA)**, prompting criticism and caution from stakeholders.¹²

A demonstration took place on 19 June against the deal despite Dar es Salaam special zone commander **Jumane Muliro** banning the demonstration on 17 June. Police arrested 11 people and dispersed the demonstrators, but no other major incidents were noted. According to the protestors, the port agreement between the government and DP World is "*shrouded with opacity*" and some have said the government is giving excessive control of ports to a foreign country.¹³

Director of criminal investigation **Camilius Wambura** ordered lawyer and activist Dr **Rugemeleza Nshala** on 10 July to report to the police. Nshala was then subject to a criminal investigation for

⁶ Mining.com, 16 Jan 2020

⁷ CH Aviation, 13 Apr 2023

⁸ ARC Tanzania analyst

⁹ The Citizen, 27 Jul 2023

¹⁰ The Citizen, 27 Jul 2023

¹¹ Human Rights Watch, 7 Aug 2023

¹² Human Rights Watch, 7 Aug 2023

¹³ Human Rights Watch, 7 Aug 2023

remarks he had made about the deal on the social media app **Clubhouse**. Nshala told HRW he had received death threats from unknown people after making his criticism known and has since fled the country. On 12 July, lawyer **Boniface Mwabukusi** and opposition politician **Mdude Nyagali** held a news conference in Dar es Salaam to protest the agreement before police summoned and arrested them on 14 July.¹⁴ Mwabukusi was released after several hours of interrogation, with no charges brought against him, while Nyagali was detained until 17 July when he was released on bond, also with no charges against him. Mwabukusi told HRW that unknown people had also sent him death threats. Police arrested the two again on 11 August for allegedly inciting and planning to organise a nationwide demonstration “*aimed at bringing down the government*”.¹⁵

Lawyer **Peter Madeleka** was arrested on 17 July on unknown charges and is reportedly still being held. Nyagali and Mwabukusi have said they believe it is because Madeleka was also critical of the deal in public forums. It was further confirmed that the attorney general filed an application with the **Advocate’s Committee**, alleging that Mwabukusi had displayed professional misconduct by voicing his criticism during another press conference held on 3 July.¹⁶

In its report, HRW outlines that the government is suppressing critics of the deal as it continues to show a low tolerance for people who have dissenting views. Criticism of the deal might soon end though, as on 10 August the **High Court (Mbeya Division)** validated the IGA between Tanzania and the UAE, dismissing a challenge by four citizens who said the IGA contravened the **Natural Wealth and Resources (Permanent Sovereignty) Act** and the constitution.¹⁷

The handling of the criticism of the DP World deal is reminiscent of Magufuli’s tenure, which was characterised by a crackdown on all quarters of society, with some international partners cutting funding over human rights concerns. Although the situation has eased under Hassan, her administration still needs to address concerns over limits on freedom of expression.

Financial Stability Report highlights economic wins

The **Bank of Tanzania (BoT)** (central bank) published its **Financial Stability Report December 2022** on 7 August, highlighting Tanzania’s steady economic growth and economic resilience. The report notes that the lingering effects of **Covid-19**, the war between **Russia** and **Ukraine**, climate-related threats and an uncertain global financial climate have presented low risks to the Tanzanian economy.¹⁸ The BoT attributes this to a favourable macroeconomic climate, a revival of corporate activity and the government’s policy initiatives. Tanzania and Zanzibar registered 4.7% and 5.4% economic growth respectively in 2022, with forecasts of 5.2% and 7.2% respectively for 2023.¹⁹ The BoT reported on 24 July that annual inflation dropped by 4% in May to 3.6% in June, the lowest rate in the **East African Community (EAC)**.²⁰

Risks remain to this positive outlook, including the prolonged conflict in Ukraine and a tighter monetary environment. The **Energy and Water Utilities Regulatory Authority (Ewura)** increased fuel products by 17% on 2 August, due to the shortage of US dollars and increased import costs. Petrol increased from TSh 2,736 (\$1,09) to TSh 3,199 (\$1,28) per litre while diesel increased from TSh 2,544 (\$1,01) to Tsh 2,935 (\$1,17) per litre.²¹ Despite this increase, inflation is not anticipated to rise significantly, remaining within the central bank’s target band of 3%-5%.²² Overall, Tanzania’s economy is showing strong resilience against external shocks, and the current monetary policy is producing positive results.

¹⁴ Human Rights Watch, 7 Aug 2023

¹⁵ Reuters, 13 Aug 2023

¹⁶ Human Rights Watch, 7 Aug 2023

¹⁷ Daily News, 11 Aug 2023

¹⁸ Business Insider Africa, 10 Aug 2023

¹⁹ Business Insider Africa, 10 Aug 2023

²⁰ The East African, 24 Jul 2023

²¹ The Citizen, 2 Aug 2023

²² ARC Tanzania analyst

Planner

5-9 Sep 2023 **Dar es Salaam (Tanzania)** Africa's Food System Forum (AGRF) Summit

20-21 Sep 2023 **Dar es Salaam (Tanzania)** Tanzania Energy Congress

20-27 Sep 2023 **Dar es Salaam (Tanzania)** Chinese investment and trade visit

3-5 Oct 2023 **Dar es Salaam (Tanzania)** Tanzania Health Summit

6-8 Oct 2023 **Dar es Salaam (Tanzania)** Swahili International Tourism Expo (S!TE) 2023

14 Oct 2023 **(Tanzania)** Nyerere Day (national holiday)

25-26 Oct 2023 **Dar es Salaam (Tanzania)** Tanzania Mining & Investment Forum

11-13 Dec 2023 **Arusha (Tanzania)** **European Alliance for Innovation (EIK)** International Conference on Emerging Technologies for Developing Countries

2023 **(Tanzania)** Commencement of construction of **Bagamoyo Port**

2024 **(Tanzania)** Local elections

2025 **(Tanzania)** Expected commencement of construction of **Lindi**-based LNG project

2025 **(Tanzania)** General elections

Chronology

11 Aug 2023 **Dar es Salaam (Tanzania)** *Business Insider Africa*. Oil marketing companies require \$747m to settle unpaid invoices for petroleum products purchased during the dollar crisis, including imports primarily from March to July 2023 and encompassing matured letters of credit, swaps, and post-import loans;

9 Aug 2023 **Dar es Salaam (Tanzania)** *African Business*. **United States Agency for International Development (USAID)** launches a five-year \$24m initiative with the **Tanzania Horticulture Association** and **Southern Agricultural Growth Corridor of Tanzania (SAGCOT) Center**;

8 Aug 2023 **Dar es Salaam (Tanzania)** *The Citizen*. **Stanbic Bank Tanzania** and Tanzanian agricultural solutions provider **Agricom Africa (AA)** sign a memorandum of understanding to drive the modernisation and growth of Tanzania's agriculture sector through asset financing and access to agri-technology;

6 Aug 2023 **Dar es Salaam (Tanzania)** *The Citizen*. Energy minister **January Makamba** meets with the leaders of the **Tanzania Association of Oil Marketing Companies (Taomac)** to discuss the hike in the price of fuel and future prospects;

3 Aug 2023 **Dar es Salaam (Tanzania)** *The Citizen*. **World Bank** reports that Tanzania's largest trading partners in terms of import value are **China**, the **United Arab Emirates**, **India** and **Saudi Arabia**;

3 Aug 2023 **Dar es Salaam (Tanzania)** *Daily News*. State minister for planning and investment in the president's office **Kitila Mkumbo** says his ministry will step up efforts to attract foreign investors, highlighting that Tanzania's political stability, geographical location, developed port infrastructure, low electricity tariffs and President **Samia Suluhu Hassan's** political will to promote the country make it an attractive investment destination;

3 Aug 2023 **Dar es Salaam (Tanzania)** *Daily News*. The **Bank of Tanzania** (central bank) says it will continue supplying **United States** dollars in the **Inter-Bank Foreign Exchange Market (IFEM)** to ensure oil marketing companies and other stakeholders have easy access to the foreign currency;

3 Aug 2023 **Dar es Salaam (Tanzania)** *Daily News*. **Tanzania Petroleum Development Corporation** embarks on the process to improve gas-producing well MB-1 at **Mnazi Bay** development area in **Mtwara Region** to expand gas production and help meet demand;

2 Aug 2023 **Dar es Salaam (Tanzania)** *Daily News*. Vice president **Philip Mpango** says the export of agricultural products has become a vital source of increased foreign currency, affirming that Tanzania has exported maize worth \$71.5m this year, compared to \$57.09m in 2022;

2 Aug 2023 **Dar es Salaam (Tanzania)** *International Monetary Fund*. **International Monetary Fund (IMF)** deputy managing director **Bo Li** completes a visit to Tanzania, thanking vice president **Philip Mpango**, finance minister **Mwigulu Nchemba** and **Bank of Tanzania** governor **Emmanuel Tutuba** for their hospitality and reiterating the IMF's commitment to supporting the authorities' effort to unlock Tanzania's development potential;

2 Aug 2023 **Dar es Salaam (Tanzania)** *All Africa*. Minerals minister **Doto Biteko** tells **Russia-Africa Summit** attendees that Tanzania is looking for the latest technology to develop its uranium resources and to explore new nuclear technologies from other countries to contribute to economic growth, particularly uranium exploration;

1 Aug 2023 **Dar es Salaam (Tanzania)** *All Africa*. **Tanzania Electric Supply Company Limited (TANESCO)** 2021/2022 annual report indicates that the company delivered a record-setting performance with profit after tax of TSh 109 billion (\$44.3m);

1 Aug 2023 **Dar es Salaam (Tanzania)** *The Independent*. Private sector and politicians criticise the government's decision to restrict food exports to **Uganda** and **Kenya**, stating that the move may hinder free trade, while others say farmers in many areas are already stuck with huge stocks of food amidst price falls;

31 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. **Tanzania Civil Aviation Authority (TCAA)** announces that Tanzania and **Russia** will make improvements to their current bilateral air services agreement;

26 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. **Tanzania Revenue Authority (TRA)** announces higher property tax rates to be collected by the TRA until 31 December, after which they will be collected by the relevant local government authority (LGA);

24 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. Tanzania's regional business competitor, **Kenya**, is set to enter into an investment agreement with the **United Arab Emirates (UAE)** over UAE investments in Kenyan ports;

23 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. **Medical Stores Department** encourages members of the private sector to invest in the manufacturing of drugs and medical devices in order to build a vibrant, sustainable, and locally driven sub-sector and reduce the country's reliance on the importation of medicines, save much-coveted foreign currency, and create jobs for Tanzanians;

20 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. The Tanzanian passport advances seven positions in the latest **2023 Henley Passport Index**, now securing the 69th spot among the world's most powerful passports;

17 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. Tanzania is expected to host the **Africa Heads of State Human Capital Summit (HCS)** on 25-26 July, which will discuss investment in human resources under the theme "*Accelerating Africa's Economic Growth: Boosting Youth Productivity by Improving Learning and Skills*";

17 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. **Hungary's** President **Katalin Novak** arrives in Tanzania for a three-day visit;

16 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. The government reports having attracted over 20 companies that are set to invest over \$20 billion in producing and selling carbon offsets, which is becoming a lucrative business in Tanzania;

13 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. Businessman **Sayida Masanja** sues **Vodacom Tanzania Plc**, alleging that the telco giant shared his personal data with an artificial intelligence (AI) chatbot without consent;

12 Jul 2023 **Dar es Salaam (Tanzania)** *The Citizen*. **Bank of Tanzania** (central bank) awards **African** digital payments provider **DPO Pay** a licence to operate as a payment service provider in Tanzania;

12 Jul 2023 **Garissa (Kenya)** *The Star*. Kenya's **Anti-Terrorism Police Unit** arrested two **Tanzanian** nationals who were reportedly on their way to **Somalia** to join the Islamist insurgent group **al-Shabaab**, the second such arrest in the past month.